

Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the tropics.

44. Before any vessel licensed to carry Emigrants shall be cleared out from the port of Calcutta, Madras or Bombay, the Master of such vessel shall obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates, under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say:—that such Protector and Emigration Agent have, in respect of the Emigrants proceeding in such vessel, done all that is hereinbefore required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions herein contained for ensuring the health, comfort and safety of the Emigrants have been duly complied with, as well as all such rules as the Governor General in Council from time to time frames under section fifty-six.

#### X.—EMBARKATION.

45. If any Emigrant without sufficient cause refuses or neglects to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark or to put him on board-ship against his will, or to detain him against his will at the depôt or elsewhere: but nothing in this section shall diminish or affect the civil or criminal liabilities, which such Emigrant incurs by reason or in respect of his refusal or neglect aforesaid.

Every case in which an Emigrant is charged before a Magistrate of Police in a Presidency Town with refusing or neglecting to embark without sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such labourer shall, on conviction, be punished in the manner provided in section four hundred and ninety-two of the Indian Penal Code for the punishment of offences under that section.

46. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration is lawful under this Act, at all times of the year,

For any such place West of the Cape of Good Hope, Emigrants may leave only between the thirty-first day of July and the first day of March, unless they embark in vessels using steam-power, in which case they may leave at any time of the year.

Provided that, in cases of emergency, the Local Government may permit Emigrants for any place West of the Cape of Good Hope to leave between the thirty-first day of July and the first day of April.

47. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every Emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labour by old age, bodily infirmity, or disease.

If the Protector of Emigrants is of opinion that any Emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the Protector shall refuse to permit his embarkation, and the husband, wife, father, mother, or child of such emigrant may, notwithstanding anything herein contained, refuse to embark.

The Protector of Emigrants shall also, before the embarkation of any Emigrant, ascertain that he has in his possession the copy of the registration provided under section twenty-seven or section twenty-nine.

If it appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost such copy, the Protector may furnish such Emigrant with another copy of such registration, to be made from the copy received by the Protector from the Magistrate under section twenty-seven or from the Register kept by himself under section twenty-nine, and shall thereupon allow such Emigrant to embark.

48. The Protector of Emigrants shall explain to all Emigrants, prior to their embarkation, the substance of the provisions of this Act so far as they immediately affect such Emigrants.

49. (1.) When any Emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, specifying, as accurately as may be, the names, ages and occupations, and the names of the fathers, of the Emigrants about to embark on board such vessel.

(2.) On embarkation, every Emigrant shall deliver to the Master of the vessel the pass granted to him under section thirty-eight; and the Master shall not receive any Emigrant on board unless he delivers up such pass. The Master shall compare the Emigrants who embark and the passes delivered by them with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the passes delivered and with the Emigrants embarked, the Master shall sign the five copies of the list.

(3.) The Protector of Emigrants shall be personally present at the embarkation of all Emigrants, and shall see that the Master duly compares the list with the passes and Emigrants, and he shall himself also compare the list with the passes and Emigrants.

(4.) The Medical Inspector shall also be personally present at the embarkation of all Emigrants and shall examine each Emigrant to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed; and the provisions of sections thirty-four, thirty-five and thirty-six shall apply, *mutatis mutandis*, to Emigrants examined under this clause.

(5.) When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sign such copies if he believes

them to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filed in the office of the Protector of Emigrants.

(6.) The Protector of Emigrants shall not permit any Emigrant to remain on board who has not a pass, or is not mentioned in the list aforesaid.

(7.) Every pass delivered up to the Master of a vessel under this section shall be returned by him to the Emigrant by whom the same was delivered up, prior to such Emigrant disembarking on the arrival of the vessel at her place of destination.

50. The Master of every vessel carrying Emigrants shall, after the embarkation of the Emigrants and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out two others of the five copies of the list of Emigrants mentioned in section forty-nine, duly signed by the Master.

The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination and previous to the disembarkation of any Emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper officer, at such place.

51. The Protector of Emigrants shall, by every vessel which carries Emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the Emigrants embark, a correct and detailed list of all Emigrants embarked in such vessel, compiled from the passes of the Emigrants and from the list signed by the Master as aforesaid.

52. The Master of every vessel carrying Emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked.

53. Every vessel sailing from the port of Calcutta with Emigrants shall proceed from Garden Reach to sea under tow of a competent steamer.

54. Two copies of this Act and of all rules made by the Governor General in Council under section fifty-six, and two copies of a translation of this Act and of such rules, in such language or languages as the Local Government may direct, shall be delivered to the Master of every vessel carrying Emigrants by the Emigration Agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage.

One of such copies or translations shall, upon request made at any reasonable time to the Master of the vessel, be produced to any Emigrant or passenger for his perusal.

55. In case of sickness breaking out on board of any vessel conveying Emigrants to Seychelles, such Emigrants may be taken to the quarantine-station of Mauritius.

In such case the Emigrants may, at their option, contract for service at Mauritius, or may proceed to Seychelles.

If they elect to contract for service in Mauritius, such Emigrants shall then be regarded and treated, in all respects, as if they had emigrated to Mauritius under the provisions of this Act.

#### XI.—SUPPLEMENTARY POWERS.

56. The Governor General in Council may from time to time make rules consistent with this Act,—

(1.) To regulate the proportion of women to be taken with Emigrants, the proportion of children to be taken with adults, and the age below or above which children shall not be taken;

(2.) To prescribe the description, quantity and quality of provisions to be taken by vessels carrying Emigrants, the daily allowance of food and water to be issued to each Emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the Emigrants;

(3.) To provide for the medical care of Emigrants during their residence at the depôts and on their voyages;

(4.) To prescribe the nature, quality and quantity of medical drugs and other stores to be carried on board such vessels;

(5.) To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

(6.) To provide for a journal being kept, by the Surgeon of every such vessel, of the health of the Emigrants, and of his treatment of the sick, together with full explanations of the causes of every death;

(7.) And generally to provide for the security, well-being, and protection of Emigrants.

All such rules shall be published in the *Gazette of India* and shall have effect as if they were contained in this Act.

Provided that, in cases of emergency, the Local Government may permit any vessel carrying Emigrants to leave port although the proportion of women or children embarked on board such vessel is not in accordance with the said rules.

57. Whenever the Governor General in Council has reason to believe that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a return-passage to India for any such Emigrants at or about the time at which they are entitled to such return-passage, the Governor General in Council may, by notification



published in the *Gazette of India*, declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

58. After any notification has been published under section fifty-seven, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification: but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

59. During the time of such suspension any provisions of this Act prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labour to be performed by any Native of India out of the British territories in India, shall take effect so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

60. Whenever the Governor General in Council is satisfied that, in the place specified in any notification under section fifty-seven, proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return-passages to India for such Emigrants at or about the time at which they are entitled to such return-passages, the Governor General in Council may notify in the *Gazette of India* that emigration to such place shall again be allowed from a day to be specified in such notification.

Thereupon all the provisions of this Act authorizing emigration to such place shall, from the day so specified, be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

61. Whenever the Governor General in Council or the Local Government has reason to believe that, in any place to which emigration is lawful, the plague or other infectious disease dangerous to human life has broken out,

or that proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein,

or for their safe return to India, or to provide a return-passage to India for any such Emigrants at or about the time at which they are entitled to such return-passage,

the Governor General in Council or the Local Government may, by notification published in the *Gazette of India* or the local Gazette (as the case may be), declare that emigration from British India or from the territories subject to the Local Government (as the case may be) to such place shall cease and be prohibited from a certain day to be specified in the notification.

Any notification issued by the Governor General in Council under this section may be cancelled by notification in the *Gazette of India*.

Any notification issued by the Local Government under this section may be cancelled by order of the Governor General in Council, or by the Local Government.

62. The Governor General in Council may from time to time, by notification in the *Gazette of India*, increase any fee payable under sections eleven, nineteen and thirty-one and may also in like manner reduce to its present amount any fee so increased:

Provided that no fee shall be increased under this section by more than double such amount.

## XII.—SPECIAL PROVISIONS AS TO FRENCH COLONIES.

63. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras and Bombay. Provided that such person, before entering on the duties of his office under this Act, has been approved by Her Majesty.

64. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native labourers for all or any of the French Colonies aforesaid.

65. The said Emigration Agents shall act in conformity with the regulations now or hereafter existing for the recruitment of Native labourers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and the advantages afforded to the Emigration Agents for British Colonies.

66. The Protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as Protector of labourers emigrating under the provisions of this Part of this Act.

In French Ports in India the duty imposed on the British Consular Agents by Article V of the Convention printed in the third schedule hereto annexed shall be performed under such instructions as may be given by the Governor General in Council in this behalf.

67. All contracts of service made with labourers emigrating to French Colonies under this Act, except the contracts mentioned in clause four of Article IX and clause two of Article X of the said Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name, or to serve a person to whom he is allotted by the proper authority on his arrival in the Colony to which he emigrates.

68. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—  
 Matters to be provided for in contract.

(1.) The duration of the engagement at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which he may abandon or renounce his right to a free return-passage.

(2.) The number of days and hours of work.

(3.) The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

(4.) Gratuitous medical treatment for the Emigrant, except in cases where, in the opinion of the proper Government officer, his illness has arisen from his own misconduct.

(5.) In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX and XXI of the said Convention.

69. The Governor General in Council may, by order to be published in the *Gazette of India*, extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established and to which the application of the said Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony.  
 Power to extend Act to French Colonies not expressly named.

Such declaration shall have the same effect as if it formed part of this section.

70. Every Emigrant vessel sailing to a French Colony shall carry an European Surgeon and an Interpreter.  
 Emigrant vessel to carry European Surgeon and Interpreter.

### XIII.—PENALTIES.

71. Whoever, except under and in conformity with the provisions of this Act, makes any contract with any Native of India for labour to be performed in any place beyond British India to which emigration is not authorized under this Act, shall be deemed to have committed the offence specified in section three hundred and sixty-three of the Indian Penal Code;  
 For making unlawful contract of labour.

And whoever knowingly enables or assists any Native of India to emigrate to any such place, or aids in or abets the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

72. Whoever, not being a Recruiter duly licensed under this Act, acts or is employed as a Recruiter of labourers, or contrary to the provisions of this Act, enters into any contract with a Native of India for labour to be performed by such Native in any place beyond British India, shall be liable to a fine not exceeding five hundred rupees.  
 For recruiting without being licensed.

73. Whoever, being a duly licensed Recruiter, removes any Emigrant whom he may engage in any district or place other than the towns of Calcutta, Madras or Bombay, from such district or place, without such  
 For Recruiter failing to take engaged labourers before Magistrate or Protector.

Emigrant having appeared along with the Recruiter before a Magistrate in order that the Emigrant might be examined and registered;

and whoever removes any Emigrant whom he may engage in any one of the towns of Calcutta, Madras or Bombay, from such town, or to an emigration depôt, without such Emigrant having appeared with the Recruiter before the Protector of Emigrants in order that the Emigrant might be examined and registered;

and whoever by means of intoxication, violence, fraud, or false pretences induces any Native of India to enter into a contract for labour to be performed by him in any place to which emigration is lawful under this Act, or to proceed to any such place without having entered into any contract;

and whoever fails to supply any Emigrant whom he has engaged, and who is registered, with suitable food, or otherwise ill-treats such Emigrant on his journey to the depôt;  
 For not supplying proper food.

and whoever forwards, sends or conveys any such Emigrant otherwise than is provided in section thirty-two, or to any house or place in or near the Towns of Calcutta, Madras or Bombay, respectively, other than the depôt for the Emigrants for the place at which such Emigrant has contracted to labour,

shall be liable to a fine not exceeding five hundred rupees.

74. Whoever, being a duly licensed Recruiter, forwards or sends any Emigrant from the district or town in which he has entered into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of sections twenty-seven and twenty-nine;  
 For forwarding labourers, or allowing them to go, without being duly registered.

and whoever, being a duly licensed Recruiter, induces or knowingly permits any such Emigrant to leave such district or town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid,

shall be liable to a fine not exceeding five hundred rupees.

75. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure labourers to proceed to any place beyond British India, or falsely represents that such labourers are required by the Government or are to be engaged on behalf of Government, shall be liable to a fine not exceeding five hundred rupees.  
 For false representation of Government authority.

76. The Master of any vessel which has not been licensed as provided in section forty, knowingly receiving any Emigrant on board in order to convey such Emigrant to any place contrary to the provisions of this Act, shall be liable to imprisonment for a period not exceeding one year, and also to a fine not exceeding one thousand rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.  
 For receiving Emigrants in an unlicensed vessel.



77. If the Master of any vessel, at the port of Calcutta, the port of Madras, or the port of Bombay, clears such vessel for any place to which emigration is lawful under this Act, and takes on board any Emigrant without having fully complied with every particular required in sections forty-one and forty-two, he shall be liable to a fine not exceeding two hundred rupees for every Emigrant so taken on board.

78. If the Master of any vessel, after having cleared such vessel for any place to which emigration is lawful under this Act, takes on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in sections forty-nine and fifty, and in the manner in those sections prescribed, he shall be liable to a fine not exceeding two hundred rupees for every Emigrant so taken on board.

79. If after having obtained a certificate in accordance with the provisions of section forty, the Master of any vessel cleared for any place to which emigration is lawful under this Act, fraudulently does, or suffers to be done, any act or thing whereby such certificate becomes inapplicable to the altered state of the vessel or other matter to which such certificate relates, he shall be liable to a fine not exceeding five thousand rupees, and he may also be sued on any bond which he may have executed in consideration of any license obtained for the vessel as originally described.

80. If the Master of a vessel sailing from the port of Calcutta, licensed under section forty and sailing with Emigrants on board, without reasonable excuse causes or allows his vessel to proceed from Garden Reach to sea, or to proceed any part of the distance between Garden Reach and sea, without his vessel being under tow of a competent steamer, or if such vessel has not left Garden Reach and proceeded on her voyage within the time prescribed in section fifty-two,

the Master of such vessel shall be liable to a fine not exceeding one thousand rupees.

81. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration is lawful under this Act, and of other offences against this Act.

82. All prosecutions under this Act shall be instituted on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an officer appointed for the purpose by the Local Government, before a Magistrate of Police, or before a Magistrate, according as they shall be instituted for offences committed within or for

offences committed beyond the limits of the towns of Calcutta, Madras and Bombay.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the said towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

#### XIV.—MISCELLANEOUS.

83. The probable length of the voyages to the places mentioned in section twenty-three, from Calcutta, Madras or Bombay respectively, shall, for the purposes of this Act, and in the case of sailing vessels, be deemed to be as follows:—

##### FROM CALCUTTA:—

To Mauritius, Seychelles and Réunion	...	Between the months of April and October inclusive, ten weeks; and between the months of November and March inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix, Martinique, Guadeloupe and its dependencies	...	Twenty weeks.
To French Guiana	...	Twenty-six weeks.
To Natal	...	Twelve weeks.

##### FROM MADRAS:—

To Mauritius, Seychelles and Réunion	...	Between the months of April and October inclusive, seven weeks; and between the months of November and March inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana	...	Nineteen weeks.
To Natal	...	Ten weeks.

##### FROM BOMBAY:—

To Mauritius, Seychelles and Réunion	...	Between the months of April and September inclusive, five weeks; and between the months of October and March inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana	...	Nineteen weeks.
To Natal	...	Ten weeks.

In the case of vessels propelled either wholly or in part by steam the Local Government may, by

notification in the Official Gazette, fix, for the purposes of this Act, the probable length of the voyages aforesaid.

84. Every notification under section twenty-four shall state the probable length of the voyages from Calcutta, Madras and Bombay, respectively, to every place to which emigration is thereby authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

85. The Local Government may from time to time authorize any person invested with the powers of a Magistrate, as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to and conferred on the Magistrate of the District.

Every person so authorized shall in all respects for the purposes of this Act be deemed to be included in the words "the Magistrate."

86. Nothing in this Act or in any rule to be made by the Governor General in Council under section sixty-one shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

#### THE FIRST SCHEDULE.

(See section 2.)

Number and year.	Title.
XLVI of 1860..	To authorize and regulate the Emigration of Native Labourers to the French Colonies.
VII of 1862 ...	To amend Act XLVI of 1860 (to authorize and regulate the Emigration of Native Labourers to the French Colonies.)
XIII of 1864 ...	To consolidate and amend the laws relating to the Emigration of Native Labourers.
VI of 1869 ...	To amend the law relating to the Emigration of Native Labourers.
VI of 1870 ...	To enable the Governor General in Council to increase the fee payable under section thirty-one of the Emigration Act.

#### THE SECOND SCHEDULE.

(See section 19.)

Office of the Protector of Emigrants at the Port of A B is hereby licensed under the Indian Emigration Act, 1871, to be a Recruiter for engaging persons to proceed to the purpose of labouring for hire.

This license will be in force for one year only from this date.

Dated the       day of

(Signed) C. D.,  
Protector of Emigrants.

#### THE THIRD SCHEDULE.

(See sections 66, 67 and 68.)

Convention between Her Majesty and the Emperor of the French relative to the Emigration of Labourers from India to the French Colonies, with an additional article thereto annexed.

Signed at Paris, July 1861.

[Ratifications exchanged at Paris, July 30th, 1861.]

His Majesty the Emperor of the French having made known, by a declaration dated this day (1st July 1861) his resolution to put an end to the recruitment upon the coast of Africa of negro labourers by means of redemption; and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland desiring, in consequence, to facilitate the immigration of free labourers into the French Colonies, their said Majesties have resolved to conclude a Convention destined to regulate the recruitment of such labourers in the British territories in India. For this purpose they have named as their Plenipotentiaries:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Most Honourable Henry Richard Charles Earl Cowley, Her Majesty's Ambassador Extraordinary and Plenipotentiary to the Emperor of the French;

And His Majesty the Emperor of the French, M. Edouard Antoine Thouvenel, Senator, His Minister and Secretary of State for the Department of Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in due form, have agreed upon the following Articles:—

#### ARTICLE I.

The French Government shall be at liberty to recruit and engage labourers for the French Colonies in the Indian Territories belonging to Great Britain, and embark Emigrants, being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

#### ARTICLE II.

The French Government shall entrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.

Those Agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal, to the Exequatur given to Consular Agents.

#### ARTICLE III.

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of labourers for British Colonies.

#### ARTICLE IV.

The French Agent shall, with regard to the operations of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the Recruiting Agents for British Colonies.

#### ARTICLE V.

The Government of Her Britannic Majesty shall appoint in those British Ports where Emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.

In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other Commissioned Consular Officers.

#### ARTICLE VI.

No Emigrant shall be embarked unless the Agent described in the preceding Article shall have been enabled to satisfy himself, either that the Emigrant is not a British subject or, if a British subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

#### ARTICLE VII.

The contracts of service, with the exception provided for by section 4 of Article IX, and by section 2 of Article X, shall be made in India, and shall either bind the Emigrant to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

#### ARTICLE VIII.

The contracts shall, moreover, make stipulation for:—  
1. The duration of the engagement, at the expiration of which the Emigrant shall receive a return-passage to India



at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant except in cases where, in the opinion of the proper Government officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX and XXI of the present Convention.

#### ARTICLE IX.

1. The duration of the Immigrant's engagement shall not be more than five years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can show that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the Immigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well as to those born in the Colonies.

#### ARTICLE X.

The Immigrant shall not be bound to work more than six days in seven nor more than nine hours and a half a day.

The conditions of task-work and every other kind of regulation for work, shall be freely arranged with the labourer. The obligation to provide, on holidays, for the care of animals and the necessities of daily life, shall not be considered as work.

#### ARTICLE XI.

In British Ports, the arrangements which precede the departure of the Emigrants shall be conformable to those prescribed by the regulations for the British Colonies.

In French Ports, the Emigration Agent or his deputies shall, on the departure of every Emigrant ship, deliver to the British Consular Agent a nominal list of the Emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such case, only one copy shall be given of all contracts of which the provisions are identical.

#### ARTICLE XII.

In the Ports of embarkation, the Emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the regulations of Police relative to such establishments, to leave the depôts, or other place in which they may be lodged, in order to communicate with the British Agents, who, on their part, may at any reasonable hour visit the places in which the Emigrants, subjects of Her Britannic Majesty, are collected or lodged.

#### ARTICLE XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For other Colonies they may leave only from the first of August to the fifteenth of March. This arrangement applies only to sailing vessels; vessels using steam-power may leave at any time of the year.

Every Emigrant sailing from India for the Antilles between the first of March and the fifteenth of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

#### ARTICLE XIV.

Every Emigrant vessel must carry an European Surgeon and an Interpreter.

The Captains of Emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by

the British Agent at the Port of embarkation for the British Consular Agent at the Port of destination and to deliver it to the Colonial Government immediately after his arrival.

#### ARTICLE XV.

In every vessel employed for the conveyance of Emigrants subjects of Her Britannic Majesty, the Emigrants shall occupy, either between decks, cabins on the upper deck or in firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for a hospital in every Emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

#### ARTICLE XVI.

Each shipment of Emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more, it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

#### ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of Emigrants.

#### ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulations as may be necessary to ensure the complete execution of the preceding stipulations.

#### ARTICLE XIX.

On the arrival of an Emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all labourers disembarked who are subjects of Her Britannic Majesty.

2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the Emigrants before their distribution in the Colony.

A copy of the "List of distribution" shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return-passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

#### ARTICLE XX.

All Immigrants, being subjects of Her Britannic Majesty, shall, in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy, in the French Colonies, the right of claiming the assistance of the British Consular Agents; and no obstacle shall be opposed to the labourer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

#### ARTICLE XXI.

In the distribution of labourers no husband shall be separated from his wife, nor any father or mother from their children under fifteen years of age. No labourer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Immigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their

own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

#### ARTICLE XXII.

All operations of immigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

#### ARTICLE XXIII.

The labour-regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subjects of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labour more stringent than those prescribed by the said regulations.

#### ARTICLE XXIV.

The present Convention applies to emigration to the Colonies of Ré-union, Martinique, Guadeloupe and its dependencies, and Guiana.

It may hereafter be applied to immigration to other Colonies in which British Consular Agents shall be established.

#### ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

#### ARTICLE XXVI.

The present Convention shall begin to take effect on the first of September 1861, and shall continue in full force for three years and a half. It shall remain in full force, if notice for its termination be not given in the course of the month of September of the third year, and then notice can be given only in the course of the month of September of each succeeding year.

In case of notice being given for its termination, it shall cease eighteen months afterwards.

Nevertheless the Governor General of British India in Council shall, in conformity with the Act of the 19th of September 1856, relative to immigration to British Colonies, have the power to suspend at any time emigration to any one or more of the French Colonies, in the event of his having reason to believe that in any such Colony proper measures have not been taken for the protection of the emigrants immediately upon their arrival or during their residence therein, or for their safe return to India, or to

provide a return-passage to India for any such emigrants at or about the time at which they are entitled to such return-passage.

In case, however, the power thus reserved to the Governor General of British India should at any time be exercised, the French Government shall have the right immediately to terminate the whole Convention, if they should think proper to do so.

But in the event of the determination of the present Convention, from whatever cause, the stipulations relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favour of the said Indian subjects, until they shall either have been sent back to their own country, or have renounced their right to a return-passage to India.

#### ARTICLE XXVII.

The present Convention shall be ratified, and the ratifications shall be exchanged at Paris in four weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Paris, the 1st day of July, in the year of our Lord one thousand eight hundred and sixty-one.

(L. S.) COWLEY.

(L. S.) THOUVENEL.

#### ADDITIONAL ARTICLE.

His Majesty the Emperor of the French having stated that, in consequence of the order which he gave long ago that no more African Emigrants should be introduced into the Island of Réunion, that Colony has, since last year, had to obtain labourers from India and China; and Her Britannic Majesty having, by a Convention signed on the 25th of July 1860, between Her Majesty and His Majesty the Emperor of the French, authorized the Colony of Réunion to recruit six thousand labourers in her Indian possessions, it is agreed that the Convention of this date shall take effect forthwith, with regard to the said Colony of Réunion.

The present Additional Article shall have the same force and validity as if it were inserted, word for word, in the Convention signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Paris, the 1st of July 1861.

(L. S.) COWLEY.

(L. S.) THOUVENEL.

WHITLEY STOKES,

*Secy. to the Govt. of India.*



The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th March 1871, and is hereby promulgated for general information :—

ACT No. VIII OF 1871.

## THE INDIAN REGISTRATION ACT, 1871.

### ARRANGEMENT OF SECTIONS.

#### PART I.

##### PRELIMINARY.

###### PREAMBLE.

###### SECTIONS.

1. Short title.  
Local extent.  
Commencement.
2. Repeal of enactments
3. Interpretation-clause.

#### PART II.

##### OF THE REGISTRATION ESTABLISHMENT.

4. Inspector General of Registration.  
Branch Inspector General of Sindh.
5. Districts and Sub-Districts.
6. Registrars and Sub-Registrars.
7. Offices of Registrars and Sub-Registrars.
8. Inspectors of Registration Offices.
9. Military Cantonments may be declared Sub-Districts or Districts.
10. Absence of a Registrar from his District or vacancy in his office.
11. Absence of Registrar on duty in his District.
12. Absence of Sub-Registrar or vacancy in his office.  
Appointments under section 10, 11, or 12 to be reported to Local Government.
13. Suspension, removal and dismissal of Registering Officers.
14. Remuneration and establishments of Registering Officers.
15. Seals of Registering Officers.
16. Register Books.  
Forms.  
Fire-proof boxes.

#### PART III.

##### OF REGISTRABLE DOCUMENTS.

17. Documents of which the registration is compulsory.  
Exception of composition-deeds.  
And of transfers of shares and debentures in Land Companies.
18. Documents of which the registration is optional.
19. Documents in language not understood by Registering Officer.
20. Documents containing interlineations, blanks, erasures or alterations.
21. Description of parcels.  
Documents containing maps or plans.
22. Failure to comply with rules as to description of houses and land.

#### PART IV.

##### OF THE TIME OF PRESENTATION.

23. Time for presenting documents of which the registration is compulsory.
24. Provision where delay in presentation is unavoidable.
25. Documents executed out of British India.
26. Provision where office is closed on last day of period for presentation.
27. Wills may be presented or deposited at any time.

#### PART V.

##### OF THE PLACE OF REGISTRATION.

28. Place for registering documents relating to immoveables.
29. Place for registering other documents.
30. Registration by Registrar.  
Registration by Registrar at Presidency Town.
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## PART VI.

## OF PRESENTING DOCUMENTS FOR REGISTRATION.

## SECTIONS.

- 32. Persons to present documents for registration.
- 33. Powers of attorney recognizable for purposes of section thirty-two.  
Proviso as to persons infirm, or in jail, or exempt from appearing in Court.
- 34. Enquiry before registration by the Registering Officer.
- 35. Procedure on admission of execution.  
Procedure on denial of execution, &c.

## PART VII.

## OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

- 36. Procedure where appearance of executant or witness is desired.
- 37. Officer or Court to issue and cause service of summons.
- 38. Persons exempt from appearance at Registry Office.
- 39. Law as to summonses, commissions and witnesses in this Act.

## PART VIII.

## OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

- 40. Persons entitled to present Wills and Authorities to adopt.
- 41. Registration of Wills and Authorities to adopt.

## PART IX.

## OF THE DEPOSIT OF WILLS.

- 42. Deposit of Wills.
- 43. Procedure on deposit of Wills.
- 44. Withdrawal of sealed cover deposited under section 42.
- 45. Proceedings on death of depositor.  
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## OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

- 47. Time from which registered document operates.
- 48. Registered documents relating to property when to take effect against oral agreements.
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## OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

*(A.) As to the Register Books and Indexes.*

- 51. Register books to be kept in the several Offices.
- 52. Endorsements on document presented.  
Receipt for document.  
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- 53. Entries to be numbered consecutively.
- 54. Current Indexes and entries therein.
- 55. Indexes to be made by Registering Officers.  
Extra particulars in Indexes.
- 56. Copy of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar.  
Such copy to be filed in Registrar's Office.
- 57. Registering Officers to allow inspection of certain Books and Indexes, and to give  
certified copies of entries.

*(B.) As to the procedure on admitting to registration.*

- 58. Particulars to be endorsed on documents admitted to registration.
- 59. Such endorsements to be dated and signed by Registering Officer.
- 60. Certificate showing that document has been registered, and number and page of book  
in which it has been copied.
- 61. Endorsements and certificate to be copied.  
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- 62. Procedure on presentation of a document in a language unknown to the Registering  
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- 63. Power to administer oaths.  
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*(C.) Special Duties of Sub-Registrar.*

## SECTIONS.

- 64. Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Sub-Districts.
- 65. Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Districts.

*(D.) Special Duties of Registrar.*

- 66. Procedure on registering instruments relating to immoveables.
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*(E.) Of the Controlling Powers of Registrars and Inspectors General.*

- 68. Registrar to superintend and control Sub-Registrars.
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## OF REFUSAL TO REGISTER.

- 71. Reasons for refusal to register to be recorded by Registrar or Sub-Registrar.
- 72. Registrar may alter or revise orders of Sub-Registrar refusing registration.
- 73. Procedure where Registrar refuses to register or direct registration of documents falling under section 17 or section 18, clauses 1, 2, 3 and 4.
- 74. Petition.  
To be verified.  
Document admissible in evidence.
- 75. Court to fix day for hearing petition and copy thereof to be served.
- 76. Court may order document to be registered.  
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## PART XIII.

## OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

- 77. Fees to be fixed by Local Government.  
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- 78. Fees and penalties be credited to Government.

## PART XIV.

## OF PENALTIES.

- 79. Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.
- 80. Penalty for certain other offences.  
Making false statements before Registering Officer.  
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False personation.  
Abetment of offences under this Act.
- 81. Registering Officer may institute prosecutions.
- 82. Registering Officers to be deemed Public Servants.

## PART XV.

## MISCELLANEOUS.

- 83. Destruction of unclaimed documents.
  - 84. Registering Officer not to be liable for anything *bond fide* done or refused in his official capacity.
  - 85. Nothing done by Registering Officer to be invalidated by defect in his appointment or procedure.
  - 86. Registration of documents executed by Government Officers or certain public functionaries.
  - 87. Exemption of certain documents executed by or in favour of Government.
  - 88. Inspection and copies of such documents.
  - 89. Recognition, in Oudh and Burma, for three months of powers of attorney not executed according to section 33.
  - 90. Burmese registration rules confirmed.
- FIRST SCHEDULE. Enactments repealed.
- SECOND SCHEDULE. Form of Petition under section 73.  
Form of verification.

## AN ACT FOR THE REGISTRATION OF DOCUMENTS.

WHEREAS it is expedient to consolidate and amend the laws relating to the registration of documents; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

1. This Act may be called  
Short title. "The Indian Registration Act, 1871."

It extends to the whole of British India, except such districts or tracts of country as the Local Government may from time to time, with the previous sanction of the Governor General in Council, exclude from its operation.

And it shall come into force on the first day  
Commencement. of July 1871.

2. On and from that day the enactments mentioned or referred to in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

But all appointments, notifications, rules and orders made, and all offices established, under any of the said enactments shall be deemed to have been, respectively, made and established under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of July 1871, to any enactment hereby repealed, shall be read as if made to the corresponding section of this Act.

And so far as regards suits instituted before the first day of April 1873, nothing herein contained affects Act No. XIV of 1859, section one, clause ten, as amended by Act No. XX of 1866, section twenty-seven.

And nothing herein contained affects Act No. XX of 1866, so far as relates to the procedure upon any agreement recorded under section fifty-two of that Act at any time before that day, or the procedure provided by that Act for the registration and deposit of authorities to adopt executed before the first day of January 1872.

3. In this Act, unless there be something repugnant in the subject or context—  
Interpretation-clause.

"Lease" includes a counterpart, a kabūliyāt, an undertaking to cultivate or occupy, and an agreement to lease:

"Signature" and "signed" include and apply to the affixing of a mark:

"Immoveable Property" includes land, buildings, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops, nor grass:

"Moveable Property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property:

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book:

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering slip to any document tendered for registration under this Act:

"Minor" means a person who, according to the personal law to which he is subject, has not attained majority:

"Representative" includes the guardian of a minor and the Committee or other legal curator of a lunatic or idiot:

"Addition" means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name.

"District Court" includes the High Court in its ordinary original civil jurisdiction:

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

## PART II.

## OF THE REGISTRATION ESTABLISHMENT.

4. The Local Government shall appoint an officer to be the Inspector General of Registration for the territories subject to such Government,

or may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers and within such local limits as the Local Government from time to time appoints in this behalf.

The Governor of Bombay in Council may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of the Inspector General under this Act other than the power to frame rules hereinafter conferred.

Any Inspector General or the Branch Inspector General of Sindh may hold simultaneously any other office under Government.

5. For the purposes of this Act, the Local Government shall form Districts and Sub-Districts, and shall prescribe and may from time to time alter the limits of such Districts and Sub-Districts.

The Districts and Sub-Districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.



6. The Local Government may appoint such Registrars and Sub-Registrars, persons, whether public officers or not, as it thinks proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid, respectively.

7. The Local Government shall establish in every District an office to be styled the Office of the Registrar and in every Sub-District an office to be styled the Office of the Sub-Registrar, and may amalgamate with any Office of a Registrar any Office of a Sub-Registrar.

8. The Local Government may also appoint officers to be called Inspectors of Registration Offices, and may from time to time prescribe the duties of such officers. Every such Inspector shall be subordinate to the Inspector General.

9. Every Military Cantonment where there is a Cantonment Magistrate may (if the Local Government so directs) be, for the purposes of this Act, a Sub-District or a District, and such Magistrate shall be the Sub-Registrar or the Registrar, of such Sub-District or District, as the case may be.

Whenever the Governor General in Council declares any Military Cantonment beyond the limits of British India to be a Sub-District or a District for the purposes of this Act, he shall also declare, in the case of a Sub-District, what authorities shall be Registrar of the District and Inspector General, and in the case of a District, what authority shall be Inspector General, with reference to such Cantonment and the Sub-Registrar or Registrar thereof.

10. Whenever any Registrar other than the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant,

any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's Office is situate,

shall be the Registrar during such absence or until the Local Government fills up the vacancy.

Whenever the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant,

any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

11. Whenever any Registrar is absent from his office on duty in his District, he may appoint any Sub-Registrar or other person in his District to perform, during such absence, all the duties of a Registrar, except those mentioned in sections sixty-eight and seventy-two.

12. Whenever any Sub-Registrar is absent, or when his office is temporarily vacant,

any person whom the Registrar of the District appoints in this behalf shall

be Sub-Registrar during such absence, or until the Local Government fills up the vacancy.

13. All appointments made under section ten, section eleven, or section twelve shall be reported to the Local Government by the Inspector General. Such report shall be either special or general, as the Local Government directs.

The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

14. Subject to the approval of the Governor General in Council, the Local Government may assign such salaries as such Government from time to time deems proper to the Registering Officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

The Local Government may allow proper establishments for the several Offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of the Registrar (or of the Sub-Registrar) of

16. The Local Government shall provide for the office of every Registering Officer the books necessary for the purposes of this Act.

The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe custody of the records connected with the registration of documents in such District.

### PART III.

#### OF REGISTRABLE DOCUMENTS.

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a District in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or Act No. XX of 1866, or this Act came or comes into force (that is to say),—

(1) Instruments of gift of immoveable property:

(2) Other instruments (not being wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property:

(3) Instruments (not being wills) which acknowledge the receipt or payment of any consi-

deration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

(4) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent.

Provided that the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of this section any leases executed in any District, or part of a District, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

Nothing in clauses (2) and (3) of this section applies

Exception of composition-deeds; (a) to any composition-deed,

(b) to any instrument relating to shares in a Joint Stock Company, notwithstanding that the and of transfers of assets of such Company consist in whole or in part of shares and debentures in Land Companies. immoveable property, or

(c) to any endorsement upon or transfer of any debenture issued by any such Company.

Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.

18. Any of the documents next hereinafter mentioned may be registered under this Act (that is to say),—

(1) Instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees to or in immoveable property:

(2) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest:

(3) Leases of immoveable property for any term not exceeding one year, and leases exempted under section seventeen:

(4) Awards relating to immoveable property:

(5) Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title, or interest to or in moveable property:

(6) Wills:

(7) Acknowledgments, Agreements, Appointments, Articles of Partnership, Assignments, Awards, Bills of Exchange, Bills of Sale, Bonds, Composition-deeds, Conditions of Sale, Contracts, certified copies of decrees and orders of Courts, Covenants, Grants, Instruments of Dissolution of Partnership, Instruments of Partition, Powers of Attorney, Promissory Notes, Releases, Settlements, Writings of Divorcement, and all other documents not hereinbefore mentioned.

19. If any document duly presented for registration be in a language which the Registering Officer does not understand, and which is not commonly used in the District, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the District and also by a true copy.

20. The Registering Officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration. If he register such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

21. (a.) No document not testamentary relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(b.) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(c.) No document not testamentary containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several Districts, by such number of true copies of the map or plan as are equal to the number of such Districts.

22. Failure to comply with the provisions contained in section twenty-one clause (c) shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

#### PART IV.

##### OF THE TIME OF PRESENTATION.

23. Subject to the provisions contained in sections twenty-four, twenty-five and twenty-six, no document required by section seventeen to be registered, and no document mentioned in section eighteen, other than a will, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution: or, in the case of a copy of a decree or order, within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final:

Provided that, where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

24. If owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration fill after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine



not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

25. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registering Officer, if satisfied,

(1) that the instrument was so executed, and  
(2) that it has been presented for registration within four months after its arrival in British India, may, on payment of the proper registration fee, accept such document for registration.

26. Whenever a registration-office is closed on the last day of any period hereinbefore provided for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

#### PART V.

##### OF THE PLACE OF REGISTRATION.

28. Save as in this Part otherwise provided, every document mentioned in section seventeen, clauses (1), (2), (3) and (4), and section eighteen, clauses (1), (2), (3) and (4), shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates is situate.

29. Every document, other than a document referred to in section twenty-eight and a copy of a decree or order, may be presented for registration, either in the office of the Sub-Registrar in whose Sub-District the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose Sub-District the original decree or order was made, or, where the decree or order does not affect immovable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree desire the copy to be registered.

30. (a.) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

(b.) The Registrar of a District including a Presidency Town may receive and register any document referred to in section twenty-eight without regard to the situation in any part of British India of the property to which the document relates.

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer whose duty it is to register the same.

But such officer may on special cause being shown attend at the residence of any person intending to register any document which would ordinarily be registered at such office, or of any person desiring to deposit a will, and register or accept for registration or deposit such document or will.

#### PART VI.

##### OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Except in the case mentioned in section thirty-one, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper Registration Office,

by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order,

or by the representative or assign of such person, or by the agent of such person, representative or assign, duly authorized by power of attorney executed and authenticated in manner hereinafter mentioned.

33. For the purposes of section thirty-two, the powers of attorney next hereinafter mentioned shall alone be recognized (that is to say),—

(a) if the principal at the time of executing the power of attorney resides in any part of British India, in which this Act is for the time being in force a power of attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides:

(b) if the principal at the time aforesaid resides in any other part of British India, a power of attorney executed before and authenticated by any Magistrate:

(c) if the principal at the time aforesaid does not reside in British India, a power of attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India:

Provided that the following persons shall not be required to attend at any registration-office or court for the purpose of executing any such power of attorney as is mentioned in clauses (a) and (b) of this section:—

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;

persons who are in jail under civil or criminal process; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Judge (as the case may be), if satisfied that the power of attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Any power of attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or court hereinbefore mentioned in that behalf.

**34.** Subject to the provisions contained in this Part and in sections forty-one, forty-three, forty-five, sixty-nine, seventy-six and eighty-six, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation :

Provided that if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases when the delay in appearing does not exceed four months may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, the document may be registered.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon—

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

**35.** If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ;

or, in the case of any person appearing by a representative, assign or agent, if such representative, assign or agent admits the execution ;

or, if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in sections fifty-eight to sixty-one inclusive.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

If all or any of the persons by whom the document purports to be executed deny its execution,

or if any such person appears to be a minor, an idiot, or a lunatic,

or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document.

Nothing in section thirty-four, or the former part of this section, applies to copies of decrees or orders.

## PART VII.

### OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

**36.** If any person presenting any document for registration desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or court as the Local Government from time to time directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorised agent, as in the summons may be mentioned and at a time named therein.

**37.** The Officer or Court, upon receipt of the Officer or Court to peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

**38.** A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office,

a person in jail under civil or criminal process, and persons exempt by law from personal appearance in court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office, shall not be required so to appear.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

**39.** The law in force for the time being as Law as to summonses, to summonses, commissions and witness- and compelling the attendance of witnesses, and for their remuneration in suits before civil courts shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission, issued, and any person summoned to appear under the provisions of this Act.

## PART VIII.

### OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

**40.** The testator or any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration,

and the donor or donee of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

**41.** A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

A will or authority to adopt presented for registration by any other person entitled to present it, shall be registered if the Registering Officer is satisfied,

(1) that the will or authority was executed by the testator or donor, as the case may be,

(2) that the testator or donor is dead, and

(3) that the person presenting the will or authority is, under section forty, entitled to present the same.



## PART IX.

## OF THE DEPOSIT OF WILLS.

42. Any testator may either personally or by duly authorized agent deposit with any Registrar the will in a sealed cover superscribed with the name of the depositor and the nature of the document.

43. On receiving such sealed cover, the Registrar, if satisfied that the depositor is the testator, or his duly authorized agent, shall transcribe in his Register Book No. 5 the superscription on such sealed cover, and note in the register and on the sealed cover the year, month, day and hour of such presentation and receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover.

The Registrar shall then place and retain the sealed cover in his fire-proof box.

44. If the depositor of any such sealed cover wishes to withdraw it, he may apply to the Registrar with whom it has been so deposited for the delivery of the cover; and the Registrar, if satisfied as to the identity of the depositor with the applicant, shall deliver the cover accordingly.

45. If, on the death of the depositor of a sealed cover under section forty-two, application be made to the Registrar with whom it has been deposited to open the same, the Registrar, if satisfied that the depositor is dead, shall, in the applicant's presence, open the cover, and copy, at the applicant's expense, the contents thereof in his Book No. 3.

When such copy has been made, the Registrar shall re-deposit the original will.

46. Nothing hereinbefore contained shall affect the provisions of the Indian Succession Act, section two hundred and fifty-nine, or the power of any court by order to compel the production of any will. But whenever any such order is made, the Registrar shall copy the will in his Book No. 3 and make a note on such copy that the original has been removed into court in pursuance of the order aforesaid.

## PART X.

## OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

48. All documents, not testamentary, duly registered under this Act, and relating to any property whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

Effect of non-registration of documents required to be registered.

49. No document required by section seventeen to be registered,

shall affect any immoveable property comprised therein,

or confer any power to adopt,

or be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered in accordance with the provisions of this Act.

50. Every document of the kinds mentioned in clauses (1) and (2) of section eighteen, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

*Explanation.*—In cases where Act No. XVI of 1864 or Act No. XX of 1866 was in force in the place and at the time in and at which such unregistered document was executed, "unregistered" means not registered according to such Act, and, where the document is executed after the first day of July 1871, not registered under this Act.

## PART XI.

## OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(A.) *As to the Register Books and Indexes.*

51. The following Books shall be kept in the Register Books to be several offices hereinafter kept in the several offices named (that is to say),—

In all Registration Offices—

Book 1, "Register of documents relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

Book 3, "Register of wills and authorities to adopt;" and

Book 4, "Miscellaneous Register."

In the Offices of Registrars—

Book 5, "Register of deposits of wills."

In Book 1 shall be entered or filed all documents or memoranda registered under the first four clauses of sections seventeen and eighteen and all other documents mentioned in section eighteen, clause (7), which relate to immoveable property.

In Book 4 shall be entered all documents registered under clauses (5) and (7) of section eighteen, and not entered in Book 1.

Nothing in the former part of this section shall be deemed to require more than one set of books where the Office of a Registrar has been amalgamated with the Office of a Sub-Registrar.

52. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it; a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in section sixty-two, every document admitted to registration shall without un-

Endorsements on document presented.

Receipt for document.

Documents admitted to registration to be copied.

necessary delay be copied in the Book appropriated therefor according to the order of its admission.

And all such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector General.

**53.** All entries in each Book shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

**54.** In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

**55.** Two such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I. and Index No. II.

Index No. I. shall contain the names and additions of all persons executing and of all persons claiming under every document copied into or memorandum filed in Book No. 1 or Book No. 3.

Index No. II. shall contain such particulars mentioned in section twenty-one, relating to every such document and memorandum as the Inspector General from time to time directs in that behalf.

A third index to be called Index No. III. shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Book No. 4.

Indexes Nos. I., II. and III. shall contain such other particulars, and shall be prepared in such form, as the Inspector General from time to time directs.

**56.** Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector General from time to time directs, a copy of all entries made by such Sub-Registrar during the last of such intervals in Indexes Nos. I. and II.

Every Registrar receiving such copy shall file it in his office.

**57.** Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and subject to the provisions of section sixty-two, copies of entries in such books shall be given to all persons applying for such copies.

Subject to the same provisions, copies of entries in Books Nos. 3 and 4 and in the indexes relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer; but the requisite search for such entries shall be made only by the registering officer.

Such copies shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

(B.) As to the procedure on admitting to registration.

**58.** On every document admitted to registration, other than a copy of a decree or order, there shall be endorsed from time to time the following particulars (that is to say),—

(1) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent

(2) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(3) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

**59.** The registering officer shall affix the date and his signature to all endorsements made under the last preceding section, relating to the same document and made in his presence on the same day.

**60.** After such of the provisions of sections thirty-four, thirty-five, fifty-eight, and fifty-nine as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the Book in which the document has been copied.

Such certificate shall be signed, sealed and dated by the registering officer and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section fifty-nine have occurred as therein mentioned.

**61.** The endorsements and certificate referred to and mentioned in sections fifty-nine and sixty shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in section twenty-one shall be filed in Book No. 1.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section fifty-two.

**62.** When a document is presented for registration under section nineteen, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in section nineteen, shall be filed in the registration office.

The endorsements and certificate respectively mentioned in sections fifty-nine and sixty shall be made on the original, and for the purpose of making the copies and memoranda required by



sections fifty-seven, sixty-four, sixty-five and sixty-six, the translation shall be treated as if it were the original.

63. Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(C.)—*Special duties of Sub-Registrar.*

64. Every Sub-Registrar on registering a document relating to immoveable property not wholly situate in his own Sub-District, shall make a memorandum thereof and of the endorsement and certificate thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

65. Every Sub-Registrar on registering a document relating to immoveable property situate in more Districts than one, shall also forward a copy thereof and of the endorsement and certificate thereon, together with a copy of the map or plan (if any) mentioned in section twenty-one, to the Registrar of every District in which any part of such property is situate other than the District in which his own Sub-District is situate.

The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose Sub-District any part of such property is situate; and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

(D.)—*Special duties of Registrar.*

66. On registering any document not testamentary relating to immoveable property the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose Sub-District any part of the property is situate.

He shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section twenty-one, to every other Registrar in whose District any part of such property is situate.

Such Registrar, on receiving any such copy, shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose Sub-District any part of the property is situate.

Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

67. On any document being registered under section thirty, clause (b), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose District any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in the first clause of section sixty-six.

(E.)—*Of the controlling powers of Registrars and Inspectors General.*

68. Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose District the office of such Sub-Registrar is situate.

Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the Book or the office in which any document shall have been registered.

69. The Inspector General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to frame rules consistent with this Act—

providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

declaring what languages shall be deemed to be commonly used in each District;

declaring what territorial divisions shall be recognized under section twenty-one;

regulating the amount of fines imposed under section twenty-four;

regulating the exercise of the discretion reposed in the registering officer by section sixty-three;

regulating the form in which registering officers are to make memoranda of documents;

regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section fifty-one;

declaring the particulars to be contained in Indexes Nos. I, II and III, respectively;

declaring the holidays that shall be observed in the registration offices;

and, generally, regulating the proceedings of the Registrars and Sub-Registrars.

The rules so framed shall be submitted to the Local Government for approval, and, after they have been approved, they shall be published in the official *Gazette*, and shall then have the same force as if they were inserted in this Act.

70. The Inspector General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section twenty-four or section thirty-four and the amount of the proper registration fee.

## PART XII.

## OF REFUSAL TO REGISTER.

Reasons for refusal to register to be recorded by Registrar or Sub-Registrar.

71. Every registering officer refusing to register a document,

except (1) where the property to which the document relates is not situate within his District or Sub-District, or (2) where the registering officer being a Registrar declines to accept the document on the ground that it ought to be registered in the office of a Sub-Registrar,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

72. An appeal shall lie against an order of a Registrar refusing to register a document (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate if presented to such Registrar within thirty days from the date of the order, and the Registrar may reverse or alter such order:

Any Registrar refusing to direct the registration of any document shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

73. If a Registrar makes under section seventy-one or section seventy-two an order of refusal to register or to direct the registration of any document, or if he has made a like order under section eighty-two or section eighty-three of Act No. XX of 1866,

or if the Sub-Registrar has refused to register the document on the ground that the person, or one of the persons, by whom the document purports to have been executed has denied the execution,

or if the Registrar has himself as Sub-Registrar made an order of refusal under section seventy-one, any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply by petition to the District Court, in order to establish his right to have the document registered.

74. The petition shall be in the form contained in the second Schedule hereto annexed or as near thereto as circumstances permit, and shall be accompanied by copies of the reasons recorded under sections seventy-one and seventy-two; the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints; and the petition may be amended by permission of the court.

75. The court shall fix a day for the hearing of the petition not less than two days after the service next hereinafter mentioned, and shall direct a copy of the petition, with a notice at the foot thereof of the day so fixed, to be served on the registering officer and on such other persons (if any) as the court thinks fit; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to copies of petitions under this section.

76. The court may summon and enforce the attendance of witnesses and compel them to give evidence,

and on the day so fixed as aforesaid or on any day to which the hearing of the petition may be adjourned, shall enquire—

(a.) whether the document has been executed, and

(b.) whether the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration.

If it finds that the document has been executed and that the said requirements have been complied with, the court shall order the document to be registered,

and if the document be duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections fifty-eight, fifty-nine and sixty.

Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

Provided that when the officer presiding over the District Court has himself as registering officer made any order complained of under this section, the petition shall, within sixty days after the making of such order, be presented to the High Court, and the provisions contained in the former part of this section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.

The District Court or the High Court, as the case may be, may direct by whom the whole or any part of the costs of any proceedings before it under this Part shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

No appeal lies from any order made under this section.

## PART XIII.

## OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

77. Subject to the approval of the Governor General in Council, the Local Government shall prepare a table of fees payable—

for the registration of documents:

for searching the registers:

for making or granting copies of reasons, entries or documents, before, on or after registration;



And of extra or additional fees payable—

for every registration under section thirty:  
for the issue of commissions:  
for filing translations:  
for attending at private residences:  
and for such other matters as appear to the  
Local Government necessary to effect the  
purposes of this Act.

The Local Government may from time to time,  
Alteration of fees. subject to the like approval,  
alter such table.

A table of the fees so payable shall be published  
Publication of fees. in the official *Gazette*, and a  
copy thereof in English and  
the Vernacular language of the District shall be  
exposed to public view in every registration office.

Fees payable on pre-  
sentation.

78. All fees for the registra-  
tion of documents under  
this Act shall be payable on  
the presentation of such do-  
cuments.

#### PART XIV.

##### PENALTIES.

79. Every registering officer appointed under  
this Act and every person  
employed in his office for the  
purposes of this Act, who,  
being charged with the en-  
dorsing, copying, translating  
or registering of any document presented or de-  
posited under the provisions, endorses, copies,  
translates or registers such document in a manner  
which he knows or believes to be incorrect,  
intending thereby to cause, or knowing it to be  
likely that he may thereby cause injury, as defined  
in the Indian Penal Code to any person, shall be  
punished with imprisonment for a term which may  
extend to seven years, or with fine, or with both.

80. Whoever commits any of the following  
offences shall be punishable  
with imprisonment for a term  
which may extend to seven  
years, or with fine, or with both:—

Penalty for certain  
other offences.

(a) intentionally makes any false statement,  
whether on oath or not, and  
whether it has been recorded  
or not, before any officer act-  
ing in execution of this Act, in any proceeding or  
enquiry under this Act,

(b) intentionally delivers to a registering officer  
in any proceeding under sec-  
tion nineteen or section  
twenty-one a false copy or  
translation of a document, or a false copy of a map  
or plan,

(c) falsely personates another, and in such  
assumed character presents  
any document, or makes  
any admission or statement,  
or causes any summons or commission to be issued,  
or does any other act in any proceeding or enquiry  
under this Act,

(d) abets within the meaning of the Indian  
Penal Code anything made  
punishable by this Act.

81. A prosecution for any offence under this  
Act coming to the knowledge  
of a registering officer in his  
official capacity may be insti-

Registering officer may  
institute prosecutions.

tuted by or with the permission of the Inspector  
General, the Branch Inspector General of Sindh,  
the Registrar or the Sub-Registrar, in whose  
territories, District or Sub-District, as the case may  
be, the offence has been committed.

Offences punishable under this Act shall be triable  
by any court or officer exercising powers not less  
than those of a Subordinate Magistrate of the  
first class:

Provided that in imposing penalties under this  
Act, no such Court or Officer shall exceed the  
limits of jurisdiction prescribed by the law for the  
time being in force as to such Court or Officer.

All fines imposed under this Act may be recover-  
ed, if for offences committed outside the limits  
of the Presidency Towns, in the manner prescribed  
by the Code of Criminal Procedure and if for  
offences committed within those limits, in the man-  
ner prescribed by any Act regulating the Police of  
such Towns for the time being in force.

82. Every registering officer appointed under  
this Act shall be deemed a  
public servant within the  
meaning of the Indian Penal  
Code.

Every person shall be legally bound to furnish  
information to such registering officer when re-  
quired by him to do so. And in section two  
hundred and twenty-eight of the same Code, the  
words "judicial proceeding" shall include any  
proceeding under this Act.

#### PART XV.

##### MISCELLANEOUS.

83. Documents (other than wills) remaining  
unclaimed in any registration  
office, for a period exceeding  
two years, may be destroyed.

Destruction of un-  
claimed documents.

84. No registering officer  
shall be liable to any suit,  
claim or demand by reason of  
anything in good faith done or  
refused in his official capacity.

85. Nothing done in good faith pursuant to  
this Act, or any Act hereby  
repealed, by any registering  
officer, shall be deemed invalid  
merely by reason of any defect  
in his appointment or proce-  
dure.

86. Notwithstanding anything herein contain-  
ed, it shall not be necessary  
for any officer of Government,  
or for the Administrator  
General of Bengal, Madras  
or Bombay, or for any Official  
Trustee, or for the Sheriff,  
Receiver or Registrar of a High Court, to appear  
in person or by agent at any registration office in  
any proceeding connected with the registration of  
any instrument executed by him in his official  
capacity, or to sign as provided in section fifty-  
eight.

But when any instrument is so executed, the  
registering officer to whom such instrument is  
presented for registration may, if he think fit, refer  
to any Secretary to Government or to such officer  
of Government, Administrator General, Official  
Trustee, Sheriff, Receiver or Registrar, as the case

may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

*Exemptions from Act.*

87. Nothing contained in this Act or any Act hereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps :—

(a.) Documents issued, received, or attested by any officer engaged in making a settlement or revision of settlement of land revenue, and which form part of the records of such settlement.

(b.) Documents and maps issued, received, or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey.

(c.) Documents which, under any law for the time being in force, are filed periodically in any revenue office by patwáris or other officers charged with the preparation of village records.

(d.) Sanads, inám title-deeds, and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land.

But all such documents and maps shall, for the purposes of sections forty-eight and forty-nine, be deemed to have been and to be registered in accordance with the provisions of this Act.

88. Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in section eighty-seven, clauses (a), (b) and (c), and all registers of the documents mentioned in clause (d), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

89. From the first of July to the first of October 1871 in the territories respectively administered by the Chief Commissioners of Oudh and British Burma, a power of attorney not duly executed according to the provisions of section thirty-three shall, notwithstanding anything therein contained, be deemed to have been duly executed under the provisions of the same section, if the registering officer is satisfied that it has been executed in good faith, and if a power of attorney attested under the provisions of this Act cannot be obtained within the time during which the document sought to be registered can, under such provisions, be accepted for registration.

90. All rules relating to registration heretofore enforced in British Burma shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of any thing done under any of the said rules.

FIRST SCHEDULE.

(See Section 2.)

Number and year.	Title.	Extent of repeal.
XXII of 1864	An Act to make provision for the Administration of Military Cantonments.	Sections ten and forty-five.
XX of 1866	An Act to provide for the Registration of Assurances.	The whole.
XXVII of 1868	An Act to exempt certain Instruments from the Indian Registration Act, 1866.	The whole.
VII of 1870	The Court Fees Act	In Schedule I the number and words following: "3. Petition under the Indian Registration Act, section fifty-three."
	All Rules relating to the registration of documents and having the force of law in Oudh.	The whole.
	All Rules relating to the registration of documents and having the force of law in any part of British Burma.	The whole.



## SECOND SCHEDULE.

*Form of petition under section 73.*

To the Judge of the District Court [or To the Deputy Commissioner] of

The                      day of                      18 .

The petition of A. B. of  
Sheweth—

1. That by an instrument dated the                      day of                      and made between C. D. of the one part and your petitioner of the other part, certain lands were conveyed to your petitioner absolutely.

2. That such instrument was executed by the said C. D. on the                      day of                      18 .

3. That the property to which such instrument relates is situate in the Sub-District of the Sub-Registrar of                      and in the District of                      .

4. That on the                      day of                      your petitioner presented the said instrument for registration under "The Indian Registration Act, 1871," in the office of the said Sub-Registrar.

5. That the said Sub-Registrar thereupon made an order of refusal, dated the                      day of                      18 , to register the said instrument and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

6. That your petitioner on the                      day of                      appealed to the Registrar of                      against such order.

7. That the said Registrar thereupon made an order of refusal, dated the                      day of                      to direct the registration of the said instrument and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

8. That the reasons referred to in paragraphs 5 and 7 of this petition are, as your petitioner submits, insufficient.

Your petitioner therefore prays that your Honour will order the said Sub-Registrar to register the said instrument,

A. B.

*Another Form.*

To the Judge of the District Court [ or To the Deputy Commissioner] of

The                      day of                      18 .

The petition of A. B. of  
Sheweth—

1. That by an instrument dated the                      day of                      and made between C. D. of the one part and your petitioner of the other part, certain lands were conveyed to your petitioner by way of mortgage to secure the sum of one thousand rupees.

2. That such instrument was executed by the said C. D. on the                      day of                      18 .

3. That the property to which such instrument relates is situate in the Sub-District of the Sub-Registrar of                      and in the District of                      .

4. That on the                      day of                      your petitioner presented the said instrument for registration under the Indian Registration Act 1871 in the office of the said Sub-Registrar, and the said C. D. appeared personally before the said Sub-Registrar and falsely denied the execution of the said instrument.

5. That the said Sub-Registrar thereupon made an order of refusal dated the                      day of                      18 to register the said instrument and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

6. That your petitioner has complied with the requirements of the said Act so far as it has been possible for him to do so.

Your petitioner therefore prays that your Honour will order the said Sub-Registrar to register the said instrument.

A. B.

*Form of Verification.*

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed.) A. B.

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WHITLEY STOKES,  
*Secy. to the Govt. of India.*



The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th March 1871, and is hereby promulgated for general information:—

ACT No. IX OF 1871.

## THE INDIAN LIMITATION ACT, 1871.

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## AN ACT FOR THE LIMITATION OF SUITS AND FOR OTHER PURPOSES.

WHEREAS it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; And whereas it is also expedient to provide rules for acquiring ownership by possession; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

1. This Act may be called 'The Indian Limitation Act, 1871.'

It extends to the whole of British India; but nothing contained in sections two and three or in Parts II and III applies—

(a) to suits instituted before the first day of April, 1873,

(b) to suits under the Indian Divorce Act,

(c) to suits under Madras Regulation VI of 1831.

This Act shall come into force on the first day of July 1871.

2. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

3. In this Act, unless there be something repugnant in the subject or context—

'minor' means a person who has not completed his age of eighteen years:

'plaintiff' includes also any person through whom a plaintiff claims:

'nuisance' means any thing done to the hurt or annoyance of another's immovable property and not amounting to a trespass:

'bill of exchange' includes also a hundí:

'trustee' does not include a benámidár, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title:

'registered' means duly registered under the law for the registration of documents in force at the time and place of executing the document referred to in the context:

'foreign country' means any country other than British India;

and nothing shall be deemed to be done in 'good faith' which is not done with due care and attention.

## PART II.

## LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

4. Subject to the provisions contained in sections five to twenty-six (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the second schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

*Explanation.*—A suit is instituted in ordinary cases when the plaint is presented to the proper officer: in the case of a pauper, when his application for leave to sue as a pauper is filed; and in

the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

*Illustrations.*

(a).—A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence and judgment is given for the plaintiff. The defendant appeals. The appellate court must dismiss the suit.

(b).—An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

5. a. If the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day that the Court re-opens:

b. Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period;

6. When, by any law not mentioned in the schedule hereto annexed and now or hereafter to be in force in any part of British India, a period of limitation differing from that prescribed by this Act is specially prescribed for any suits, appeals or applications, nothing herein contained shall affect such law.

And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction.

*Legal Disability.*

7. If a person entitled to sue be, at the time the right to sue accrued, a minor, or insane, or an idiot,

he may institute the suit within the same period after the disability has ceased, or (when he is at the time of the accrual affected by two disabilities) after both disabilities have ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the second schedule hereto annexed.

When his disability continues up to his death, his representative in interest may institute the suit within the same period after the death as would otherwise have been allowed from the time prescribed therefor in the third column of the same schedule.

Nothing in this section shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby the period within which the suit must be brought.

*Illustrations.*

(a). The right to sue for the hire of a boat accrues to A during his minority. He comes of age four years after the accrual of the right. He may institute his suit at any time within three years from the date of his coming of age.

(b). A, to whom a right to sue for a legacy has accrued during his minority, attains full age eleven years after such right accrued. A has, under the ordinary law, only one year remaining within which to sue. But under this section



an extension of two years will be allowed him, making in all a period of three years from the date of his majority, within which he may bring his suit.

(c). A right to sue for an hereditary office accrues to A, who at the time is insane. Six years after the accrual of the right A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under this section.

(d). A right to sue as landlord to recover possession from a tenant accrues to A who is an idiot. A dies three years after the accrual of the right, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. This section does not extend that time.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without

Disability of one joint creditor.  
the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

9. When once time has begun to run, no subsequent disability or inability to sue stops it:  
Continuous running of time.

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his representatives, for the purpose of following in his or their hands such property, shall be barred by any length of time.  
Suits against express trustees and their representatives.

*Explanation.*—A purchaser in good faith for value from a trustee is not his representative within the meaning of this section.

11. Suits in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.  
Suits on foreign contracts.

12. No foreign rule of limitations shall be a defence to a suit in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract, and the parties were domiciled in such country during the period prescribed by such rule.  
Foreign limitation law.

### PART III.

#### COMPUTATION OF PERIOD OF LIMITATION.

13. In computing the period of limitation prescribed for any suit, the day on which the right to sue accrued shall be excluded.  
Exclusion of day on which right to sue accrues.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper, an application to the High Court for the admission of a special appeal, and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed against or sought to be reviewed, shall be excluded.  
Exclusions in case of appeals and certain applications.

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

14. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded, unless service of a summons to appear and answer in the suit can, during such absence, be made under the Code of Civil Procedure, section sixty.  
Exclusion of time of defendant's absence from British India.

15. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another suit, whether in a Court of first instance or in a Court of appeal, against the same defendant or some person whom he represents, shall be excluded, where the last-mentioned suit is founded upon the same right to sue, and is instituted in good faith in a Court which from defect of jurisdiction, or other cause of a like nature, is unable to try it.  
Exclusion of time of suing *bond fide* in Court without jurisdiction.

*Explanation 1.*—In excluding the time during which a former suit was pending, the day on which that suit was instituted, and the day on which the proceedings therein ended, shall both be counted.

*Explanation 2.*—A plaintiff resisting an appeal presented on the ground of want of jurisdiction, shall be deemed to be prosecuting a suit within the meaning of this section.

16. In computing the period of limitation prescribed for any suit, the commencement of which has been stayed by injunction, the time of the continuance of the injunction shall be excluded.  
Exclusion of time during which commencement of suit is stayed by injunction.

17. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a suit to set aside the sale shall be excluded.  
Exclusion of time during which judgment-debtor sues to set aside execution sale.

18. When a person who would, if he were living, have a right to sue, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative in interest of the deceased capable of suing.  
Effect of death before right to sue accrues.

When a person against whom, if he were living, a right to sue would have accrued, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative whom the plaintiff may sue.

Nothing in the former part of this section applies to suits for the possession of land or of an hereditary office.

19. When any person having a right to sue has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded, and where any document necessary to establish such right has been fraudulently concealed, the time limited for commencing a suit,  
Effect of fraud.

(a) against the person guilty of the fraud or accessory thereto, or,

(b) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

20. a. No promise or acknowledgment in respect of a debt or legacy shall take the case out of the operation of this Act, unless such promise or acknowledgment is contained in some writing signed, before the expiration of the prescribed period, by the party to be charged therewith or by his agent generally or specially authorized in this behalf.

b. When such writing exists, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the promise or acknowledgment was signed.

c. When the writing containing the promise or acknowledgment is undated, oral evidence may be given of the time when it was signed. But when it is alleged to have been destroyed or lost, oral evidence of its contents shall not be received.

*Explanation 1.*—For the purposes of this section, promise or acknowledgment may be sufficient, though it omits to specify the exact amount of the debt or legacy, or avers that the time for payment or delivery has not yet come, or is accompanied by a refusal to pay or deliver, or is coupled with a claim to a set-off, or is addressed to any person other than the creditor or legatee;

but it must amount to an express undertaking to pay or deliver the debt or legacy or to an unqualified admission of the liability as subsisting.

*Explanation 2.*—Nothing in this section renders one of several partners or executors chargeable by reason only of a written promise or acknowledgment signed by another of them.

#### Illustrations.

Z, a bond-debtor, himself writes a letter promising to pay the debt to his creditor A. Z affixes his seal, but does not sign the letter:

Z pays part of the debt and promises orally to pay the rest:

Z publishes an advertisement, requesting his creditors to bring in their claims for examination:

In none of these cases is the debt taken out of the operation of this Act.

21. When interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent generally or specially authorized in this behalf,

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent generally or specially authorised in this behalf,

a new period of limitation, according to the nature of the original liability, shall be computed from the time when the payment was made:

Provided that, in the case of part-payment of principal, the debt has arisen from a contract in writing and the fact of the payment appears in

the handwriting of the person making the same, on the instrument, or in his own books, or in the books of the creditor.

22. When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have commenced when he was so made a party:

Provided that, when a plaintiff dies, and the suit is continued by his representatives in interest, it shall, as regards them, be deemed to have commenced when it was instituted by the deceased plaintiff:

Provided also, that, when a defendant dies, and the suit is continued against his representatives in interest, it shall, as regards them, be deemed to have been commenced when it was instituted against the deceased defendant.

23. In the case of a suit for the breach of a contract, where there are successive breaches, a fresh right to sue arises, and a fresh period of limitation begins to run, upon every fresh breach; and where the breach is a continuing breach, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the breach continues.

Nothing in the former part of this section applies to suits for the breach of contracts for the payment of money by instalments, where, on default made in payment of one instalment, the whole becomes due.

#### Illustrations.

(a).—A contracts to pay an annuity to B for his life by quarterly instalments. A fails to pay any of the instalments. Here upon every fresh failure, a fresh right to sue arises and a fresh period of limitation begins to run; and this Act may bar the remedy on the earlier breaches without affecting the remedy on the later breaches.

(b).—A, a tenant, covenants with B, his landlord, to keep certain buildings in repair. At every moment of the time during which the buildings continue out of repair and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

24. In the case of a continuing nuisance a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the nuisance continues.

#### Illustration.

A diverts B's watercourse. At every moment of the time during which the diversion continues and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

25. In the case of a suit for compensation for an act lawful in itself, which becomes unlawful in case it causes damage, the period of limitation shall be computed from the time when the damage accrues.

#### Illustration.

A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation runs from the time of the subsidence.

26. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.



*Illustrations.*

(a).—A Hindú makes a promissory note bearing a Native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiry of four months after date computed according to the Gregorian calendar.

(b).—A Hindú makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiry of one year after date computed according to the Gregorian calendar.

## PART IV.

## ACQUISITION OF OWNERSHIP BY POSSESSION.

27. Where the access and use of light or air to

and for any building has been peaceably enjoyed there-with, as an easement, and as of right, without interruption, and for twenty years,

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement, shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

*Explanation.*—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

*Illustrations.*

(a).—A suit is brought in 1871 for obstructing a right of way. The defendant admits the obstruction but denies the right of way. The plaintiff proves that the right was

peaceably and openly enjoyed by him claiming title thereto as an easement and as of right, without interruption, from 1st January 1850 to 1st January 1870. The plaintiff is entitled to judgment.

(b).—In a like suit also brought in 1871 the plaintiff merely proves that he enjoyed the right in manner aforesaid from 1848 to 1868. The suit shall be dismissed, as no exercise of the right by actual user has been proved to have taken place within two years next before the institution of the suit.

(c).—In a like suit the plaintiff shews that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had asked his leave to enjoy the right. The suit shall be dismissed.

28. Provided that, when any land or water

Exclusion in favour of upon, over or from which any reversioner of servient easement (other than the access and use of light and air)

has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof,

the time of the enjoyment of such easement during the continuance of such interest or term, shall be excluded in the computation of the said last mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

*Illustration.*

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shews that during ten of these years C, a deceased Hindú widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

29. At the determination of the period hereby

Extinguishment of limited to any person for right to land or instituting a suit for possession of any land or hereditary office, his right to such land or office shall be extinguished.

## FIRST SCHEDULE.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
21 Jac. I, cap. sixteen ...	An Act for limitation of actions and for avoiding of suits in law.	The whole Statute, so far as it applies to British India.
4 Ann. cap. sixteen ...	An Act for the amendment of the law and the better advancement of justice.	Sections seventeen, eighteen and nineteen, so far as they apply to British India.
33 Geo. III, cap. fifty-two ...	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further regulations for the Government of the said territories, and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said Company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	So much of section one hundred and sixty-two as relates to the limitation of civil suits in British India.
53 Geo. III, cap. one hundred and fifty-five.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further Regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company.	Section one hundred and twenty-four, so far as it applies to British India.
9 Geo. IV, cap. seventy-four ...	Administration of Criminal Justice	So much of section fifty-one as relates to civil suits.
6 & 7 Vic., cap. ninety-four ...	Foreign Jurisdiction Act ...	Section seven, so far as it applies to British India.
Act No. XIV of 1840 ...	An Act for rendering a written memorandum necessary to the validity of certain promises and engagements, by extending to the territories of the East India Company, in cases governed by English Law, the provisions of the Statute 9 Geo. IV, cap. 14.	From and including the words "Whereas by an Act" down to and including the words "Defendants against the Plaintiff."
Act No. XI of 1841 ...	Military Courts of Requests ...	The proviso in section nine.
Act No. XX of 1847 ...	Copyright Act ...	In section sixteen, the words 'actions, suits, bills.'
Act No. XII of 1855 ...	An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.	In section one, the words "and provided such action shall be brought within one year after the death of such person," and the words "and so as such action shall be commenced within two years after the committing of the wrong."



## FIRST SCHEDULE—continued.

Number and year.	Subject or title.	Extent of repeal.
Act No. XIII of 1855 ...	Compensation for loss occasioned by death caused by actionable wrong.	In section two, the words "and that every such action shall be brought within twelve calendar months after the death of such deceased person."
Act No. XXV of 1857 ...	Forfeiture for mutiny ...	Section nine.
Act No. VIII of 1859 ...	The Code of Civil Procedure ...	In section one hundred and nineteen, the words "within a reasonable time not exceeding thirty days after any process for enforcing the judgment has been executed," and the words "within thirty days from the date of the judgment." In section two hundred and thirty, the words "within one month from the date of the dispossession." The last twelve words of section two hundred and forty-six. In section two hundred and fifty-six, the words "At any time within thirty days from the date of the sale." In section two hundred and sixty-nine, the words "if made within one month from the date of such existence or obstruction or of such dispossession, as the case may be." In section three hundred and twenty-four, the second sentence. In section three hundred and twenty-seven, the words "within six months from the date of the award." In section three hundred and thirty-three, from and including the words "within the period" down to the end of the section. In section three hundred and forty-seven, the words "within thirty days from the date of the dismissal." In section three hundred and seventy-three, the words "within the period prescribed for the presentation of a memorandum of appeal." So much of section three hundred and seventy-seven as has not been repealed.
Act No. XIV of 1859 ...	An Act to provide for the limitation of suits.	The whole Act, except so much of section fifteen as does not relate to the limitation of suits.
Act No. IX of 1860 ...	Workmen and employers ...	So much of section two as relates to the limitation of suits.

## FIRST SCHEDULE—concluded.

Number and year.	Subject or title.	Extent of repeal.
Act No. XXXI of 1860 ...	Arms Act ...	So much of section forty-nine as relates to the limitation of suits.
Act No. V of 1861 ...	Mofussil Police ...	So much of section forty-two as relates to the limitation of suits.
Act No. XXIII of 1861 ...	Civil Procedure Code Amendment ...	Section twelve.
Act No. XXV of 1861 ...	Criminal Procedure Code ...	Section four hundred and fifteen.
Act No. I of 1863 ...	Civil Courts in British Burma ...	Section twenty-four.
Act No. VI of 1863 ...	Consolidated Customs Act ...	So much of section two hundred and fourteen as relates to the limitation of suits.
Act No. XXIII of 1863 ...	Claims to Waste-lands ...	So much of section five as relates to the limitation of suits.
Act No. VII of 1865 ...	Government Forests Act ...	So much of section sixteen as relates to the limitation of suits.
Act No. XX of 1866 ...	Registration Act ...	Section fifty-one.
Act No. XIV of 1868 ...	Contagious Diseases Act ...	So much of section twenty-five as relates to the limitation of suits.
Act No. XX of 1869 ...	Volunteers ...	So much of section twenty-six as relates to the limitation of suits.
Act No. X of 1870 ...	Land Acquisition ...	So much of section fifty-eight as relates to the limitation of suits.
Act No. IV of 1871 ...	Coroners ...	In section forty-two, the words 'after the expiration of three months from such fact or failure, nor.'
Bombay Regulation V of 1827...	A Regulation defining the Limitations, as to Time, within which Civil Actions may be prosecuted, and containing Rules of Judication respecting written Acknowledgments of Debts executed without receipt of a full consideration; also regarding Interest, the tendering payment of Debts, and the disposal of Property mortgaged or pledged.	Chapter one.

## SECOND SCHEDULE.

(See section 4.)

## FIRST DIVISION: SUITS.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part I.—Thirty days.</i>	
1.—To contest an award of the Board of Revenue under Act No. XXIII of 1863 (to provide for the adjudication of claims to waste-lands).	Thirty days ...	When notice of the award is delivered to the plaintiff.



## SECOND SCHEDULE—continued.

## FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part II.—Ninety days.</i>	
2.—For doing, or for omitting to do, an act in pursuance of any enactment in force for the time being in British India.	Ninety days ...	When the act or omission took place.
	<i>Part III.—Six months.</i>	
3.—Under Act No. XIV of 1859 (to provide for the limitation of suits), section fifteen, to recover possession of immoveable property.	Six months ...	When the dispossession occurs.
4.—Under Act No. IX of 1860 (to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers), section one.	Ditto ...	When the wages, hire, or price of work claimed accrued due.
5.—Under Act No. V of 1866 (to provide a summary procedure on bills of exchange, and to amend, in certain respects, the commercial law of British India).	Ditto ...	When the bill or promissory note becomes due and payable.
	<i>Part IV.—One year.*</i>	
6.—Upon a Statute, Act, Regulation, or bye-law, for a penalty or forfeiture.	One year ...	When the penalty or forfeiture is incurred.
7.—For the wages of a domestic servant, artisan or labourer not provided for by this schedule, No. 4.	Ditto ...	When the wages sued for accrue due.
8.—For the price of food or drink sold by the keeper of an hotel, tavern or lodging house.	Ditto ...	When the food or drink is delivered.
9.—For the price of lodging ...	Ditto ...	When the lodging ends.
10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto ...	When the purchaser takes actual possession under the sale sought to be impeached.
11.—For damages for infringing copy-right or any other exclusive privilege.	Ditto ...	The date of the infringement.

## SECOND SCHEDULE—continued.

## FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part IV.—One year,—continued.</i>		
12.—By executors, administrators, or representatives under Act No. XII of 1855 ( <i>to enable executors, administrators or representatives to sue and be sued for certain wrongs</i> ).	One year ...	The date of the death of the person wronged.
13.—By executors, administrators or representatives under Act No. XIII of 1855 ( <i>to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong</i> ).	Ditto ...	The date of the death of the person killed.
14.—To set aside any of the following sales:— (a) sale in execution of a decree of a Civil Court; (b) sale in pursuance of a decree or order of a Collector or other officer of revenue; (c) sale for arrears of Government revenue or for any demand recoverable as such arrears; (d) sale of a patnī tāluq sold for current arrears of rent.  <i>Explanation.</i> —In this clause 'patnī' includes any intermediate tenure saleable for current arrears of rent.	Ditto ...	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
15.—To alter or set aside a decision or order of a civil court in any proceeding other than a suit.	Ditto ...	The date of the final decision or order in the case by a court competent to determine it finally.
16.—To set aside any act of an Officer of Government in his official capacity, not herein otherwise expressly provided for.	Ditto ...	The date of the act.
17.—Against Government to set aside any attachment, lease or transfer of immoveable property by the revenue authorities for arrears of Government revenue.	Ditto ...	When the attachment, lease or transfer is made.
18.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	Ditto ...	When the payment is made.
19.—Against Government for compensation for land acquired for public purposes.	Ditto ...	The date of determining the amount of the compensation.
20.—Like suit for compensation when the acquisition is not completed.	Ditto ...	The date of the refusal to complete.
21.—For false imprisonment ...	Ditto ...	When the imprisonment ends.



## SECOND SCHEDULE—continued.

## FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part IV.—One year,—concluded.</i>		
22.—For any other injury to the person ...	One year ...	When the injury is committed.
23.—For a malicious prosecution ...	Ditto ...	When the plaintiff is acquitted.
24.—For libel ...	Ditto ...	When the libel is published.
25.—For slander ...	Ditto ...	When the words are spoken.
26.—For taking or damaging moveable property.	Ditto ...	When the taking or damage occurs.
27.—For loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto ...	When the loss occurs.
28.—For inducing a person to break a contract with the plaintiff.	Ditto ...	The date of the breach.
29.—For an illegal, irregular or excessive distress.	Ditto ...	The date of the distress.
30.—For wrongful seizure of moveable property under legal process.	Ditto ...	The date of the seizure.
<i>Part V.—Two years.</i>		
31.—For obstructing a way or a water-course	Two years ...	The date of the obstruction.
32.—For diverting a water-course ...	Ditto ...	The date of the diversion.
33.—For wrongfully detaining title-deeds.	Ditto ...	When the title to the property comprised in the deeds is adjudged to the plaintiff, or the detainer's possession otherwise becomes unlawful.
34.—For wrongfully detaining any other moveable property.	Ditto ...	When the detainer's possession becomes unlawful.
35.—For specific recovery of moveable property in cases not provided for by this schedule, numbers 48 and 49.	Ditto ...	When the property is demanded and refused.
36.—Against a carrier for losing or injuring goods.	Ditto ...	When the loss or injury occurs.
37.—Against a carrier for delay in delivering goods.	Ditto ...	When the goods ought to be delivered.
38.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Ditto ...	The time of the perversion.
39.—Under Act No. XII of 1855 ( <i>to enable executors, administrators or representatives to sue and be sued for certain wrongs</i> ) against an executor, administrator or other representative.	Ditto ...	When the wrong complained of is done.

## SECOND SCHEDULE—continued.

## FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	<i>Part V.—Two years,—concluded.</i>	
40.—For compensation for any wrong, malfeasance, nonfeasance or misfeasance independent of contract and not herein specially provided for.	Two years ...	When the wrong is done or the default happens.
41.—For the recovery of a wife ...	Ditto ...	When possession is demanded and refused.
42.—For the restitution of conjugal rights	Ditto ...	When restitution is demanded and refused.
	<i>Part VI.—Three years.</i>	
43.—For trespass upon immoveable property.	Three years ...	When the trespass takes place.
44.—To contest an award under any of the following Regulations of the Bengal Code:— VII of 1822, IX of 1825, and IX of 1833.	Ditto ...	The date of the final award or order in the case.
45.—By a party bound by such award to recover any property comprised therein.	Ditto ...	Ditto.
46.—By any person bound by an order respecting the possession of property made under Act No. XVI of 1838, section one, clause two, or Act No. XXV of 1861, chapter twenty-two, or Bombay Act No. V of 1864, or by any one claiming under such person, to recover the property comprised in such order.	Ditto ...	The date of the final order in the case.
47.—For lost moveable property not dishonestly misappropriated or converted.	Ditto ...	When the property is demanded and refused.
48.—For moveable property acquired by theft, extortion, cheating, or dishonest misappropriation or conversion.	Ditto ...	Ditto.
49.—For the hire of animals, vehicles, boats or household furniture.	Ditto ...	When the hire becomes payable.
50.—For the balance of money advanced in payment of goods to be delivered.	Ditto ...	When the goods ought to be delivered.
51.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of the delivery of the goods.



## SECOND SCHEDULE—continued.

## FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VI.—Three years,—continued.</i>		
52.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Three years ...	The expiry of the period of credit.
53.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto ...	When the period of the proposed bill elapses.
54.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Ditto ...	The date of the sale.
55.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Ditto ...	When the work is done.
56.—For money payable for money lent	Ditto ...	When the loan is made.
57.—Like suit when the lender has given a cheque for the money.	Ditto ...	When the cheque is paid.
58.—For money lent under an agreement that it shall be payable on demand.	Ditto ...	When the demand is made.
59.—For money payable to the plaintiff for money paid for the defendant.	Ditto ...	When the money is paid.
60.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Ditto ...	When the money is received.
61.—For money payable for interest upon money due from the defendant to the plaintiff.	Ditto ...	When the interest becomes due.
62.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto ...	When the accounts are stated, unless where the debt is made payable at a future time and then when that time arrives.
63.—Upon a promise to do anything at a specified time, or upon the happening of a specified contingency.	Ditto ...	At the time specified or upon the contingency happening.
64.—Against a factor for an account ...	Ditto ...	When the account is demanded or, where no such demand is made, when the agency terminates.
65.—On a single bond where a day is specified for payment.	Ditto ...	The day so specified.
66.—On a single bond where no such day is specified.	Ditto ...	The date of executing the bond.
67.—On a bond subject to a condition ...	Ditto ...	When the condition is broken.
68.—On a bill of exchange or promissory note payable at a fixed time after date.	Ditto ...	When the bill or note falls due.
69.—On a bill of exchange payable at or after sight.	Ditto ...	When the bill is presented.
70.—On a bill of exchange accepted payable at a particular place.	Ditto ...	When the bill is presented at that place.

72.—On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Ditto	...	When the demand is made.
73.—By the endorsee of a bill or promissory note against the endorser.	Ditto	...	The date of the endorsement.
74.—On a promissory note or bond payable by instalments.	Ditto	...	The expiration of the first term of payment, as to the part then payable; and, for the other parts, the expiration of the respective terms of payment.
75.—On a promissory note or bond payable by instalments, which provides that if default be made in payment of one instalment the whole shall be due.	Ditto	...	The time of the first default, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made.
76.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto	...	The time of the delivery to the payee.
77.—On a dishonoured foreign bill where protest has been made and notice given.	Ditto	...	When the notice is given.
78.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Ditto	...	The date of the refusal to accept.
79.—Like suit when the bill has been dishonoured by non-acceptance and afterwards by non-payment.	Ditto	...	Ditto.
80.—Suit on a bill of exchange or promissory note not herein expressly provided for.	Ditto	...	When the bill or note becomes payable.
81.—By the acceptor of an accommodation-bill against the drawer.	Ditto	...	When the acceptor pays the amount.
82.—By a surety against the principal debtor.	Ditto	...	When the surety pays the creditor.
83.—By a surety against a co-surety	Ditto	...	When the plaintiff pays anything in excess of his own share.
84.—Upon any other contract to indemnify	Ditto	...	When the plaintiff is actually damaged.
85.—By an attorney or vakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Ditto	...	The termination of the suit or business, or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance.
86.—For compensation for damage caused by an injunction wrongfully obtained.	Ditto	...	When the injunction ceases.



87.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Three years	...	The time of the last item admitted or proved in the account.
88.—On a policy of insurance when the sum assured is payable after proof of the death or loss has been given to or received by the insurers.	Ditto	...	When proof of the death or loss is given or received, to or by the insurers, whether by or from the plaintiff, or any other person.
89.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	Ditto	...	When the insurers elect to avoid the policy.
90.—By a principal against his agent for moveable property received by the latter and not accounted for.	Ditto	...	When the account is demanded and refused.
91.—Other suits by principals against agents for neglect or misconduct.	Ditto	...	When the neglect or misconduct occurs.
92.—To cancel or set aside an instrument not otherwise provided for.	Ditto	...	When the instrument is executed.
93.—To declare the forgery of an instrument issued, or registered, or attempted to be enforced.	Ditto	...	The date of the issue, registration, or attempt.
94.—For property which the plaintiff has conveyed while insane.	Ditto	...	When the plaintiff is restored to sanity and has knowledge of the conveyance.
95.—For relief on the ground of fraud	Ditto	...	When the fraud becomes known to the party wronged.
96.—To set aside a decree obtained by fraud.	Ditto	...	Ditto.
97.—For relief on the ground of mistake in fact.	Ditto	...	When the mistake becomes known to the plaintiff.
98.—For money paid upon an existing consideration, which afterwards fails.	Ditto	...	The date of the failure.
99.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Ditto	...	The date of the trustee's death, or if the loss has not then been occasioned, the date of the loss.
100.—For contribution by a party who has paid the whole amount due under a joint decree, or by a sharer in a joint estate who has paid the whole amount of revenue due from himself and his co-sharers.	Ditto	...	The date of the plaintiff's advance in excess of his own share.
101.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Ditto	...	When the right to contribution accrues.

## SECOND SCHEDULE—continued.

## FIRST DIVISION: SUITS:—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VI.—Three years—concluded.</i>		
102.—For a seaman's wages ...	Three years ...	The end of the voyage during which the wages are earned.
103.—By a Muhammadan for exigible dower ( <i>mu'ajjal</i> ).	Ditto ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
104.—By a Muhammadan for deferred dower ( <i>muwajjal</i> ).	Ditto ...	When the marriage is dissolved by death or divorce.
105.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Ditto ...	The date of the receipt.
106.—For an account and a share of the profits of a dissolved partnership.	Ditto ...	The date of the dissolution.
107.—By a Hindú manager of a joint estate for contribution in respect of a payment made by him on account of the estate.	Ditto ...	The date of the payment.
108.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Ditto ...	When the trees are cut down.
109.—For the profits of immoveable property belonging to the plaintiff wrongfully received by the defendant.	Ditto ...	When the profits are received, or, where the plaintiff has been dispossessed by a decree afterwards set aside on appeal, the date of the decree of the appellate court.
110.—For arrears of rent. ...	Ditto ...	When the arrears become due.
111.—By a vendor of immoveable property to enforce his lien for unpaid purchase-money.	Ditto ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
112.—For a call by a company registered under any Statute or Act.	Ditto ...	When the call was made.
113.—For specific performance of a contract.	Ditto ...	When the plaintiff has notice that his right is denied.
114.—For the rescission of a contract ...	Ditto ...	When the contract is executed by the plaintiff.
115.—For the breach of any contract, express or implied, not in writing registered, and not herein specially provided for.	Ditto ...	When the contract is broken, or (where there are successive breaches) when the breach sued for occurs, or (where the breach is continuing) when it ceases.
<i>Part VII.—Six years.</i>		
116.—Upon a judgment obtained in a foreign country.	Six years ...	The date of the judgment.



## SECOND SCHEDULE—continued.

## FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VII.—Six years—continued.</i>		
117.—On a promise or contract in writing registered.	Six years ...	When the period of limitation would begin to run against a suit brought on a similar promise or contract not registered.
118.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto ...	When the right to sue accrues.
<i>Part VIII.—Twelve years.</i>		
119.—By an auction-purchaser or any one claiming under him to avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, the estate being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.
120.—To avoid incumbrances or under-tenures in a <i>patni taluq</i> or other saleable tenure sold for arrears of rent, the <i>talug</i> or tenure being, by virtue of such sale, freed from incumbrances and under-tenures.	Ditto ...	When the sale becomes final and conclusive.
121.—Upon a judgment obtained in British India, or a recognizance.	Ditto ...	The date of the judgment or recognizance.
122.—For a legacy or for a distributive share of the moveable property of a testator or intestate.	Ditto ...	When the legacy or share becomes payable or deliverable.
123.—For possession of an hereditary office.	Ditto ...	When the defendant, or some person through whom he claims, took possession of the office adversely to the plaintiff.  <i>Explanation.</i> —An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.
124.—Suit during the life of a Hindú widow by a Hindú entitled to the possession of land on her death to have an alienation made by the widow declared to be void except for her life.	Ditto ...	The date of the alienation.
125.—By a Hindú governed by the law of the <i>Mitákshará</i> to set aside his father's alienation of ancestral property.	Ditto ...	The date of the alienation.
126.—Like suit by a Hindú governed by the law of the <i>Dáyabhága</i> .	Ditto ...	When the father dies.
127.—By a Hindú excluded from joint-family property to enforce a right to share therein.	Ditto ...	When the plaintiff claims and is refused his share.
128.—By a Hindú for maintenance	Ditto ...	When the maintenance sued for is claimed and refused.

## SECOND SCHEDULE—continued.

## FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VIII.—Twelve years—continued.</i>		
129.—To establish or set aside an adoption.	Twelve years ...	The date of the adoption, or (at the option of the plaintiff) the date of the death of the adoptive father.
130.—For the resumption or assessment of rent-free land.	Ditto ...	When the right to resume or assess the land first accrued :  Provided that no such suit shall be maintained where the land forms part of a permanently-settled estate, and has been held rent-free from the time of the Permanent Settlement.
131.—To establish a periodically recurring right.	Ditto ...	When the plaintiff is first refused the enjoyment of the right.
132.—For money charged upon immoveable property.	Ditto ...	When the money sued for becomes due.
<i>Explanation.</i> —The allowance and fees called <i>málikána</i> and <i>haqq</i> s shall, for the purposes of this clause, be deemed to be money charged upon immoveable property.		
133.—To recover moveable property conveyed in trust, deposited or pawned and afterwards bought from the trustee, depository or pawnee in good faith and for value.	Ditto ...	The date of the purchase.
134.—To recover possession of immoveable property conveyed in trust or mortgaged and afterwards purchased from the trustee or mortgagee in good faith and for value.	Ditto ...	The date of the purchase.
135.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	Ditto ...	When the mortgagee is first entitled to possession.
136.—By a purchaser at a private sale for possession of the immoveable property sold, when the vendor was out of possession at the date of the sale.	Ditto ...	When the vendor is first entitled to possession.
137.—Like suit by a purchaser at a sale in execution of a decree, when the execution-debtor was out of possession at the date of the sale.	Ditto ...	When the execution-debtor is first entitled to possession.
138.—By a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when he never has had possession.	Ditto ...	The date of the sale.
139.—Like suit when the purchaser had possession, but was afterwards dispossessed.	Ditto ...	The date of the dispossession.
140.—By a landlord to recover possession from a tenant.	Ditto ...	When the tenancy is determined.



## SECOND SCHEDULE—continued.

## FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
<i>Part VIII.—Twelve years,—continued.</i>		
141.—By a remainderman, a reversioner, (other than a landlord) or a devisee, for possession of immoveable property.	Twelve years ...	When his estate falls into possession.
142.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú widow.	Ditto ...	When the widow dies.
143.—For possession of immoveable property, when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	Ditto ...	The date of the dispossession or discontinuance.
144.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Ditto ...	When the forfeiture was incurred or the condition broken.
145.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for.	Ditto ...	When the possession of the defendant, or of some person through whom he claims, became adverse to the plaintiff.
146.—For a declaration of right to an easement.	Ditto ...	When the easement ceased to be enjoyed by the plaintiff, or the persons on whose behalf he sues.
<i>Part IX.—Thirty years.</i>		
147.—Against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years ...	The date of the deposit or pawn, unless where an acknowledgment of the title of the depositor or pawnor, or of his right of redemption, has before the expiration of the prescribed period been made in writing signed by the depositary, or pawnee, or some person claiming under him, and, in such case, the date of the acknowledgment.
<i>Part X.—Sixty years.</i>		
148.—Against a mortgagee to recover possession of immoveable property mortgaged.	Sixty years ...	The date of the mortgage, unless where an acknowledgment of the title of the mortgagor or of his right of redemption has, before the expiration of the prescribed period, been made in writing signed by the mortgagee or some person claiming under him, and, in such case, the date of the acknowledgment: Provided that all claims to redeem arising under instruments of mortgage of immoveable property situate in British Burma, which have been executed before the first day of May 1863, shall be governed by the rules of limitation in force in that Province immediately before the same day.

SECOND SCHEDULE—*continued.*FIRST DIVISION: SUITS—*continued.*

Description of application.	Period of limitation.	Time when period begins to run.
	<i>Part X.—Sixty years,—continued.</i>	
149.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	Sixty years ...	When any part of the principal or interest was last paid on account of the mortgage debt.
150.—Any suit in the name of the Secretary of State for India in Council.	Ditto ..	When the right to sue accrued.

## SECOND DIVISION: APPEALS.

Description of appeals.	Period of limitation.	Time when period begins to run.
151.—Under the Code of Civil Procedure to the Court of a District Judge.	Thirty days ...	The date of the decree appealed against.
152.—Under the Code of Criminal Procedure to any Court other than the High Court.	Ditto ...	The date of the sentence or order appealed against.
153.—Under the same Code to the High Court.	Sixty days ...	Ditto.
154.—Under the Code of Civil Procedure to the High Court.	Ninety days ...	The date of the decree appealed against.

## THIRD DIVISION: APPLICATIONS.

Description of application.	Period of limitation.	Time when period begins to run.
155.—Under the Code of Civil Procedure to set aside an award.	Ten days ...	When the award is submitted to the Court and notice of the submission has been given to the persons and in manner prescribed by the High Court.
156.—By a plaintiff for an order to set aside a judgment by default.	Thirty days ...	The date of the judgment.
157.—By a defendant for an order to set aside a judgment <i>ex parte</i> .	Ditto ...	The date of executing any process for enforcing the judgment.
158.—Under the Code of Civil Procedure, by a person dispossessed of immoveable property and disputing the right of the decreeholder to be put into possession.	Ditto ...	The date of the dispossession.



SECOND SCHEDULE—*continued.*THIRD DIVISION: APPLICATIONS,—*continued.*

Description of application.	Period of limitation.	Time when period begins to run.
159.—To set aside a sale in execution of a decree, on the ground of irregularity in publishing or conducting the sale.	Thirty days ...	The date of the sale.
160.—Complaining of resistance or obstruction to delivery of possession of immoveable property sold in execution of a decree, or of dispossession in the delivery of possession to the purchaser of such property.	Ditto ...	The date of the resistance, obstruction or dispossession.
161.—For re-admission of an appeal dismissed for want of prosecution.	Ditto ...	The date of the dismissal.
162.—For leave to appeal as a pauper ...	Ninety days ...	The date of the decree appealed against.
163.—To a High Court for the admission of special appeal.	Ditto ...	Ditto.
164.—For a review of judgment ...	Ditto ...	The date of the decree.
165.—Under the Code of Civil Procedure, section three hundred and twenty seven, that an award be filed in Court.	Six months ...	The date of the award.
166.—For the execution of a decision (other than a decree or order passed in a regular suit or an appeal) of a Civil Court or of a Revenue Court.	One year ...	The date of the decision, or of taking some proceeding to enforce or keep in force the decision.
167.—For the execution of a decree or order of any Civil Court not provided for by No. 169.	Three years ...	<p>The date of the decree or order,</p> <p>or (where there has been an appeal) the date of the final decree or order of the Appellate Court,</p> <p>or (where there has been a review of judgment) the date of the decision passed on the review,</p> <p>or (where the application next hereinafter mentioned has been made) the date of applying to the Court to enforce, or keep in force, the decree or order,</p> <p>or (where the notice next hereinafter made has been issued) the date of issuing a notice under the Code of Civil Procedure, section two hundred and sixteen,</p> <p>or (where the application is to enforce payment of an instalment which the decree directs to be paid at a specified date) the date so specified.</p>

SECOND SCHEDULE—*concluded*THIRD DIVISION : APPLICATIONS,—*continued*.

Description of application.	Period of limitation.	Time when period begins to run.
168.—For the execution of any such decree or order of which a certified copy has been registered under the Indian Registration Act.	Six years ...	The date of the decree or order, or (where there has been an appeal) the date of the final decree or order of the Appellate Court, or (where there has been a review of judgment) the date of the decision passed on the review.
169.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction.	Twelve years ...	<p>When a present right to enforce the judgment, decree or order accrued to some person capable of releasing the right :</p> <p>Provided that, when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing signed by the person liable to pay such principal or interest or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be.</p>



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*Nothing hereinafter contained shall be deemed to have the force of law.*

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WHITLEY STOKES,  
 Secy. to the Govt. of India.



The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th March 1871, and is hereby promulgated for general information :—

ACT No. X of 1871.

## THE EXCISE ACT, 1871.

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SCHEDULE—(Acts repealed.)



**AN ACT TO CONSOLIDATE AND AMEND THE LAWS RELATING TO THE EXCISE REVENUE IN  
NORTHERN INDIA, BRITISH BURMA AND COORG.**

WHEREAS it is expedient to consolidate and amend the laws in force in Northern India, British Burma and Coorg relating to the manufacture of spirits, the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom: It is hereby enacted as follows:—

**I.—PRELIMINARY.**

**Short title.** 1. This Act may be called "The Excise Act, 1871."

**Local extent.** It extends to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma and Coorg.

**Commencement of Act.** It shall come into force in the North-Western Provinces, the Panjáb, Oudh and the Central Provinces on the passing thereof, and in British Burma and Coorg on the first day of April 1872.

**Repeal of Acts.** 2. The Acts mentioned in the schedule hereto annexed are repealed.

**Interpretation-clause.** 3. In this Act, "Chief Revenue Authority" means,—

in the territories subject to the Lieutenant-Governor of the North-Western Provinces, the Board of Revenue,

in the Panjáb and Oudh, the Financial Commissioner, and

in the Central Provinces, British Burma and Coorg, the Chief Commissioner.

"Collector" includes any Revenue Officer in independent charge of a District and a Superintendent of Akkari Revenue.

"Magistrate" means any Magistrate exercising powers not less than those of a Subordinate Magistrate of the first class.

"Country-spirit" means any spirit made by the Native process of distillation.

"Intoxicating drugs" includes ganja, bhang, charas, opium and every preparation and admixture of the same.

**4.** Nothing herein contained affects Act No. XVI of 1863 (to make special provision for the levy of the excise duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry).

**II.—MANUFACTURE OF SPIRITS AND FERMENTED LIQUOR.**

**5.** No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the hand of the Collector of the District in which such distillery is situated.

Chief Revenue Authority to prescribe rules for regulating English distilleries.

**6.** The Chief Revenue Authority may from time to time make rules relative to—

(a) the granting of licenses under section five;  
(b) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work;

(c) the size and description of the stills,

(d) the passing and storing of the spirits,

(e) the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein;

(f) the furnishing of statements and lists of such spirits, and of the stills, coppers, casks, and other utensils used in the distillery.

Collectors may establish distilleries for country spirits.

**7.** The Collector, with the sanction of the Chief Revenue Authority, may—

(a) establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the native process;

(b) from time to time fix limits within which no country spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery; and

(c) discontinue any distillery so established.

Chief Revenue Authority may prescribe rules for distilleries.

**8.** The Chief Revenue Authority may from time to time make rules relative to

(a) the management of distilleries established under section seven,

(b) the conditions on which spirits may be manufactured in the said distilleries, and

(c) the passes to be issued for the conveyance of such spirits to the shops of the vendors.

Breweries not to be constructed or worked, without license.

**9.** No person shall construct or work a brewery, or manufacture any description of malt liquor, without a license from the Collector.

The Chief Revenue Authority may from time to time make rules relative to the granting of licenses for constructing and working breweries.

**10.** Except in the Central Provinces, British Burma and Coorg, the sanction of the Local Government is required to validate rules under sections six, eight and nine.

**11.** No person shall manufacture spirits after the native process except under license from the Collector.

**III.—SALE OF SPIRITS, FERMENTED LIQUOR AND INTOXICATING DRUGS.**

**12.** Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

**13.** Persons taking out licenses for the whole-  
 Fee for wholesale li- sale vend of spirituous and  
 cense. fermented liquors as aforesaid  
 shall pay, for every such license, such sum as  
 the Chief Revenue Authority from time to time  
 prescribes.

The license shall be current only during the  
 official year, and in the district in which it is  
 granted.

But travelling merchants may obtain, under  
 such rules and restrictions as the Chief Revenue  
 Authority from time to time prescribes, a general  
 license, authorizing them to sell by wholesale, in  
 any district which they may visit in the course of  
 their travel, without taking out a fresh license for  
 that district.

**14.** Persons taking out licenses for the retail  
 Fee for retail license. sale of spirituous and fer-  
 mented liquors as aforesaid  
 shall pay for every such license such fee or tax as  
 the Chief Revenue Authority fixes, and such fee or  
 tax shall be payable at such periods as the said  
 Authority directs.

Any sale of spirituous or fermented liquors as  
 What to be held a re- aforesaid, in less quantity  
 tail sale. than two imperial gallons or  
 one dozen of quart bottles, shall be held to be a  
 retail sale.

**15.** No person shall sell spirits manufactured  
 Country spirits, and by the native process, or t<sup>ar</sup>i,  
 drugs not to be sold or pachw<sup>ai</sup>, or any in-  
 without license. toxicating drug, except under  
 license from the Collector.

**16.** All the provisions relating to the sale or  
 T<sup>ar</sup>i to be deemed a possession of fermented  
 fermented liquor. liquors contained in the fol-  
 lowing sections apply to the sale or possession of  
 t<sup>ar</sup>i, whether in a fermented state or otherwise;  
 and all t<sup>ar</sup>i, both fresh and fermented, is included  
 in the expression "fermented liquors" as used in  
 the following sections.

**17.** Provided that the Local Government may  
 Proviso. suspend the operation of all  
 the provisions relating to t<sup>ar</sup>i,  
 contained in this Act, with respect to any district  
 in which the consumption of t<sup>ar</sup>i in a fermented  
 state is inconsiderable; and thereupon t<sup>ar</sup>i may be  
 possessed and sold without license in such district,  
 notwithstanding anything contained in this Act.

**18.** Opium shall be supplied to licensed ven-  
 Supply of opium to d<sup>or</sup>s from the Government  
 licensed vendors. stores in such manner and  
 at such prices as the Chief  
 Revenue Authority from time to time directs: and  
 no other description of opium shall be sold by such  
 vendors.

The Local Government may, from time to time,  
 Proviso. by order, exempt any district  
 from the operation of this  
 section.

**19.** Except for the supply of licensed vendors,  
 Sale of more than or under a special order from  
 specified quantities of such officer as the Local  
 country spirits, &c., pro- Government appoints in this  
 hibited. behalf, country spirits, t<sup>ar</sup>i,  
 and pachw<sup>ai</sup>, and intoxicating drugs shall not be  
 sold in larger quantities than are hereunder  
 specified—

country spirits, one ser;  
 t<sup>ar</sup>i or pachw<sup>ai</sup>, four sers;

ganja or bhang, or any preparation or admix-  
 ture thereof, one quarter of a ser;

charas or opium, or any preparation or admix-  
 ture thereof, five tolas weight;

And the sale of any such quantity as is herein  
 allowed shall be deemed to be a retail sale within  
 the meaning of this Act.

**20.** No cultivator of the plants producing  
 Restriction of sale of ganja or bhang shall sell  
 ganja and bhang. any ganja or bhang to any  
 one other than (a) a person  
 licensed under section fifteen to sell the same or  
 (b) a person duly authorised to purchase the same  
 by pass or license from the Collector.

#### IV.—DUTIES.

**21.** A duty shall be levied on spirits manu-  
 Rate of duty to be factured at distilleries work-  
 levied on English spirits. ed according to the English  
 method, at the rate of three  
 rupees the imperial gallon of the strength of  
 London-proof, to be augmented or reduced in pro-  
 portion to the strength of the spirit.

No spirit shall be removed from any such dis-  
 tillery, or the warehouses connected therewith, upon  
 which the aforesaid duty has not been paid, or for  
 the duty chargeable on which a bond has not been  
 executed as hereinafter provided.

For all spirits removed upon payment of duty  
 or under bond, passes shall be issued by the  
 Collector, which shall specify

- (a) the quantity and strength of the spirit,
- (b) the place of its destination,
- (c) the person to whom it is consigned, and
- (d) whether the duty has been paid or secured by  
 bond.

Nothing in the former part of this section ap-  
 plies to British Burma.

**22.** Spirituous liquors manufactured at any  
 place in India beyond the  
 Spirits from foreign limits of British India, shall,  
 territory subject to duty. on passing such limits sub-  
 ject to this Act, be charged with the duty pre-  
 scribed for proof-spirits in section twenty-one:

and any person found in possession of any such  
 liquors, without a pass from the Collector certifi-  
 ing the payment of such duty, shall forfeit for  
 every such offence a sum not exceeding two  
 hundred Rupees; and the liquors, together with  
 the vessels containing the same, and the animals  
 and conveyances used in carrying them, shall be  
 liable to confiscation.

**23.** A duty shall be levied on spirits manufac-  
 tured in distilleries estab-  
 Duty on country spirits tured under section seven at such  
 manufactured at dis- rate as the Chief Revenue  
 tilleries established by Authority, with the sanction  
 the Collector. of the Local Government, may from time to time  
 prescribe.

**24.** Whenever a license for the retail sale of  
 country spirits, t<sup>ar</sup>i, or pach-  
 w<sup>ai</sup>, or intoxicating drugs,  
 is granted under this Act,  
 the Collector may demand, in consideration of the  
 privilege granted, such tax or duty, or a tax or  
 duty adjusted on such principles, as may from  
 time to time be fixed by the Chief Revenue  
 Authority.



Such tax or duty shall be specified in the license, and shall be payable at such periods as the said Authority may direct.

The Collector may grant special licenses for the sale of unfermented t    only, at those periods of the year when the fresh juice is in request: fees may be demanded for such special licenses at a rate for each license to be fixed from time to time by the Chief Revenue Authority; and the vendors shall not be subject to any other tax or duty in respect of such sale.

#### V.—FARM OF DUTIES.

**25.** The Collector may, with the sanction of the Chief Revenue Authority, let in farm, for any period not exceeding five years, the duties leviable on the retail sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs, in any district or division of a district.

*Power to farm out duties.*

**26.** The Chief Revenue Authority may prescribe rule—

(a) for the invitation and acceptance of tenders for such farms,

(b) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(c) as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

**27.** When the duties leviable on any of the articles above enumerated

*Farmer to make arrangements with local manufacturers and vendors.*

are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

And all the fines and forfeitures hereinafter prescribed, for the unlawful manufacture, sale, or possession of any such article, shall be incurred by all persons manufacturing, selling, or possessing the same without license or authority from the farmer.

**28.** Every such farmer shall file in the Collector's office a list of all the

*List of licenses granted by farmer to be filed.*

licenses granted by him in such form as may be prescribed by the Chief Revenue Authority.

The Collector, with the sanction of the said Chief Revenue Authority,

*Restrictions as to grant of licenses.*

may, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit.

**29.** The Collector may, with the sanction of the Chief Revenue Authority,

*Lease may be cancelled.*

cancel any lease granted under this Act; or may within the period of the lease, impose any new restriction on the farmer.

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease,

*Compensation to farmers in certain cases.*

the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Chief Revenue Authority thinks fit.

**30.** Every farmer of Excise revenue may use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor, as may be lawfully used by zamind   s and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

#### VI.—LICENSES.

**31.** Every person taking out a license for the manufacture of country spirits or for the retail sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security, as the Collector may require.

**32.** Unless otherwise especially authorized by the Chief Revenue Authority, licenses for retail sale shall be granted for the term of one year, and if continued to the holders thereof, shall be formally renewed from year to year.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into by every such person, shall remain in force as if the said license and engagement had been formally renewed.

**33.** The Chief Revenue Authority may regulate the form and conditions of all licenses granted under this Act.

*Chief Revenue Authority to regulate form of license.*

**34.** The Collector may recall or cancel any license granted under this Act, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence.

If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or if notice be not given, shall make such further compensation for default of notice as the Commissioner or Chief Revenue Authority directs.

**35.** Any licensed retail vendor may surrender his license on giving one month's previous notice to the Collector, and paying such fine not exceeding the amount of the license fees for six months as the Collector may adjudge.

If the Collector is satisfied that there is a sufficient reason for resigning a license, he may remit the fine so prescribed.

#### VII.—POWERS OF OFFICERS.

**36.** The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of Land Revenue, who shall perform

*Collectors of Land Revenue to have charge of the Excise Revenue.*

the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Chief Revenue Authority.

But the Local Government may appoint any other person to be Superintendent of Excise Revenue in any district or place, and any person so appointed shall exercise, in such district or place, all the powers and authority conferred by this Act on the Collector of Land Revenue; and the Collector of Land Revenue shall cease to exercise such powers and authority in such district or place during the continuance of such appointment.

37. The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the Excise revenue in any district or districts; and when such appointment is made the Commissioner of Excise shall exercise within such District or Districts the powers and authority conferred by this Act on Commissioners of Revenue, and the Commissioners of Revenue shall cease to exercise such powers and authority in the said District or Districts during the continuance of such appointment.

38. Collectors may appoint *dároghas*, *jamadárs*, *peons*, *surveyors*, *gaugers*, and other officers, for the collection of the Excise Revenue and for the prevention of smuggling, and the officer so appointed shall, in addition to their ordinary designations, be styled Excise Officers.

39. In districts where there are *tahsildárs* and other local officers for the collection of the land revenue, the office of Excise *dárogha* may be united with that of *tahsildár*, or any of such local officers, and the said officers, together with the officers subordinate to them, shall be deemed to be Excise Officers within the meaning of this Act.

40. The Chief Revenue Authority may regulate the mode in which *tári* shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing *ganja*, *bhang*, or *charas* for the supply of the licensed vendors of those drugs.

Such Authority may also place the cultivation, preparation, and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

41. The Collector may recover any arrear of tax or duty due on account of any license granted under this Act, or any arrear due from any farmer of Excise revenue,

by distress and sale of the moveable property of the person from whom the arrear is due or of his surety, or by any other process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties.

42. Any Excise officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail vendor carries on the manufacture

of country spirits, or the sale of spirituous or fermented liquors, or intoxicating drugs.

43. Any Excise officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act;

and may seize the liquors or drugs with the vessels, packages, or coverings in which they are contained, and the animals and conveyances used in carrying them;

and may also arrest the person in whose possession such liquors or drugs are found.

44. Any Excise officer above the rank of a *jamadár* of *peons* may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors, or intoxicating drugs,

and may seize such still with the materials for working it, and all such liquors and drugs.

45. Whenever any Excise officer above the rank of a *jamadár* of *peons* has reason to believe, from information given by any person, which information shall be taken down in writing,

that spirits are unlawfully manufactured, or that any spirituous or fermented liquors, or intoxicating drugs liable to confiscation under this Act, are kept or concealed in any house, boat, or other place,

such officer may, between sunrise and sunset (but always in the presence of an officer of Police not being under the grade of a *jamadár*), enter into any such house, boat, or place,

and in case of resistance may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs;

and may also arrest the occupier of the house, boat, or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

46. The powers of seizure, search, and arrest, given to Excise officers by the three last preceding sections, may, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be exercised also by the officers of the Police, Customs, and Revenue Departments according to their respective grades.

And the Local Government may confer on the officers of those departments, or of any of them, like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession thereof.

All such officers when so empowered, as well as all Police, Customs, and Revenue officers when acting under the authority conferred by this section



for the suppression of illicit dealings in opium, shall be deemed to be Excise officers within the meaning of this Act.

47. Whenever an Excise officer arrests any person,  
Abkari officer to report arrests, &c., or seizes any still, or any liquors or drugs liable to confiscation under this Act,  
 or enters any house, boat, or place for the purpose of searching for any such illicit articles,  
 he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, or seizure, or search, to his official superior, and unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch, to the Magistrate for trial or adjudication.

48. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.  
Collector may issue warrant of arrest in certain cases.

49. The Collector may issue his warrant for the search of any house, boat, or place, in which, upon any of the grounds mentioned in the last preceding section, he has reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed.  
Collector may issue search-warrant.

Such warrant may be executed by any officer above the rank of a jamadar of peons, at the time and in the manner prescribed in section forty-five.

Whenever the Collector thinks that the search should be made between sunset and sunrise on any particular day, he shall issue a warrant specially authorising the search to be so made. Such warrant may be executed by any officer above the rank of a jamadar of peons, in the manner prescribed in section forty-five and shall cease to be in force at sunrise on the day next following.

50. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.  
Procedure after arrest or seizure.

51. All Police officers are required to aid the Excise officers in the due execution of this Act, upon notice given or request made by such officers.  
Police to assist Excise officers.

#### VIII.—PENALTIES.

52. Whoever constructs or works a distillery after the English method, without a license from the Collector, shall for every such offence be punished with fine not exceeding one thousand rupees;  
For constructing or working a distillery without license.

and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

53. Every proprietor or manager of a licensed distillery constructed and worked after the English method, who omits to furnish any notice or any statement or list required by the rules prescribed by the Chief Revenue Authority under section six, or wilfully does anything in contravention of the said rules, shall for every such offence be punished with fine not exceeding two hundred rupees;  
For non-observance of rules prescribed by Chief Revenue Authority.

and if any such offence be committed a second time with respect to the same distillery, the Collector may withdraw the license granted for the working of such distillery.

54. Whoever removes or attempts to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which the Collector has not issued a pass, shall for every such offence be punished with fine not exceeding one thousand rupees;  
For removing spirituous liquors without payment of duty.

and the liquors, together with the vessels containing the same and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the Collector may withdraw the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed.

55. Whoever re-lands, or attempts to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of Revenue at the place of exportation, shall for every such offence be punished with fine not exceeding five hundred rupees;  
For irregular re-land of spirituous liquors.

and the liquors, together with the casks and vessels containing the same, and the carts, boats, and animals employed in carrying them, shall be liable to confiscation.

56. Whoever constructs or works a brewery, or manufactures malt liquor, without a license, shall for every such offence be punished with fine not exceeding five hundred rupees.  
For working brewery without license.

57. Every person licensed to manufacture country spirits or to sell spirituous or fermented liquors or intoxicating drugs, who fails to produce his license on the demand of any Excise officer, or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall for every such offence be punished with fine not exceeding fifty rupees.  
For refusing to produce license on demand of Excise officer.

58. Every licensed retail vendor, who sells any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by  
For sale in contravention of license.

retail by this Act, and every licensed wholesale vendor who makes a retail sale, shall for every such offence be punished with fine not exceeding two hundred rupees.

Provided that nothing in this section shall be held to prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Act.

**59.** Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who permits drunkenness, riot, or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for liquors or drugs, shall for every such offence be punished with fine not exceeding two hundred rupees.

**60.** Whoever conveys or attempts to convey any country spirits from a distillery established under section seven without a pass, or exceeding the quantity for which a pass has been granted,

or introduces or attempts to introduce any country spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector,

shall for every such offence be punished with fine not exceeding five hundred rupees.

**61.** Whoever wilfully contravenes any rule prescribed by the Chief Revenue Authority for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding section, shall for every such offence be punished with fine not exceeding fifty rupees.

**62.** Every person other than a licensed manufacturer who manufactures any country spirits,

and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who sells any spirituous or fermented liquors, or intoxicating drugs,

and every person authorized to supply licensed vendors, who sells any such liquors or drugs to any person other than a licensed vendor,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Nothing in this section or in section twelve applies to the sale by auction of any spirituous liquors, wines, or beer purchased by any person for his private use and so disposed of upon his quitting a station or after his decease.

**63.** Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who has in his possession any larger quantity of country spirits, or tãri, or pachwãl, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of section nineteen,

or transports by land or by water, or has in his possession, any spirituous liquors made at a

distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that behalf,

shall for every such offence be punished with fine not exceeding two hundred rupees;

and the liquors and drugs, together with the vessels, packages, and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Provided, that nothing in this section extends to any spirituous liquors, wines, or beer, purchased by any person for his private use and not for sale.

**64.** The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of tãri, the produce of the date tree, when supplied or used for the manufacture of gũr or molasses; and the provisions of the said sections relating to the sale and possession of intoxicating drugs, do not apply to the sale and possession of ganja or bhang by the cultivators of the plants which produce those drugs respectively.

Every such cultivator selling ganja or bhang in breach of the prohibition contained in section twenty, shall for every such offence be punished with fine not exceeding five hundred rupees.

**65.** Every person, other than a licensed vendor, who has in his possession a greater quantity of opium than five tolas weight, shall for every such offence be punished with fine not exceeding five hundred rupees, unless the opium found in his possession exceeds the weight of thirty-one sers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen rupees the ser for all the opium so found in excess of that weight;

and the opium, together with the vessels, packages, and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation.

**66.** Nothing in section sixty-five applies to the persons and circumstances hereinafter specified, namely:—

(a) Authorized opium cultivators having newly extracted opium in their possession during the usual period between the full growth of the poppy and the delivery of the produce to the opium agent.

(b) Travellers and visitants from foreign States or countries having in their possession any quantity of foreign opium not exceeding two sers, or, in British Burma, five tolas, the produce of such foreign States and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or barter.

(c) Dealers in horses travelling with strings of horses from beyond the limits of British India, and having in their possession opium, the produce of foreign States or countries, not exceeding in quantity the proportion of ten tolas weight for each horse.



If opium be found in the possession of any such traveller, visitant, or dealer in horses in excess of the quantities above specified, such excess shall be liable to confiscation; but the person in whose possession it may be found shall not be subject to any further penalty.

67. Every licensed vendor, who sells or offers for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which he has taken out a license,

or, who, except in districts exempted from the operation of section eighteen, sells or has in his possession any opium other than the opium supplied to him from the Government stores,

shall for every such offence be punished with fine not exceeding five hundred rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized and confiscated.

68. Every proprietor, farmer, tahsildár, gum-áshta, or other manager of land, who authorizes or connives at the manufacture of country spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall for every such offence be punished with fine not exceeding five hundred rupees.

69. Any Police officer who, without lawful excuse, neglects or refuses to assist as aforesaid, and any dārogha or other officer in charge of a Police station, who, on application made by an Excise officer under section forty-five, fails to attend a search himself, or to depute a subordinate officer not being below the grade of a jamadár, shall for every such offence be punished with fine not exceeding five hundred rupees.

70. Whoever maliciously gives false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procures that such person be arrested or that any house, boat, or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall for every such offence be punished with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both.

Such fine or any part thereof may be paid to the person aggrieved.

71. Any Excise officer who without reasonable ground of suspicion, searches or causes to be searched any house, boat, or other place,

or vexatiously and unnecessarily seizes the moveable property of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act,

or vexatiously and unnecessarily arrests any person,

or commits any other excess not required for the execution of his duty,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

72. Any Excise officer who neglects to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter, or delays carrying to the Magistrate or Collector at the case may be, any person arrested, or any illicit articles seized under this Act, shall for every such offence be punished with fine not exceeding two hundred rupees.

73. Any Excise officer unlawfully releasing or conniving at the escape of any person arrested under this Act, or conniving at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person, contrary to the terms of his license, or acting in a manner inconsistent with his duty, for the purpose of enabling any person to do anything where by any of the provisions of this Act may be evaded or broken, or the Excise Revenue defrauded;

and any officer invested with local jurisdiction, authorizing or conniving at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control,

shall for every such offence be punished with fine not exceeding five hundred rupees.

74. All fines leviable for offences against this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any Excise officer;

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under section fifty-nine, sixty-nine, seventy, seventy-one, seventy-two or seventy-three.

75. In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or Excise officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

The rules contained in the Code of Criminal Procedure, for the trial of cases before a Magistrate, and for appeal against orders passed by a Magistrate, shall apply to trials under this Act.

Provided that no complaint or information of an offence against this Act shall be admitted, unless it be preferred within six months after the commission of the offence to which the complaint or information refers.

76. Whenever any person is convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty provided for such offence, to imprisonment for a term not exceeding six months.

A like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

77. Every person imprisoned for an offence  
Confinement in civil jail. under section fifty-nine, sixty-nine, seventy, seventy-one, seventy-two or seventy-three, shall be confined in the criminal jail, and every person imprisoned for an offence under any other section shall be confined in the civil jail.

78. All things confiscated under this Act,  
Disposal of confiscated goods. except opium, shall be disposed of by the Collector by public sale.

Opium so confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be sent to the Government factories, or otherwise disposed of in such manner as the Chief Revenue Authority directs. If declared to be unfit for use, it shall be immediately destroyed.

79. One-half of all fines levied from persons  
Disposal of fines, &c., as rewards. convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles except opium, and in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each ser, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender.

The other half of such fines and forfeitures, and the other half of the proceeds of sale, or in the case of opium as aforesaid, a reward of one rupee eight annas for each ser, shall be given to the informer.

If in any case the fine or forfeiture is not realized,  
Rewards where no fine is realized. the Chief Revenue Authority may grant such reasonable reward, not exceeding two hundred rupees, as may seem fit; and such Authority may direct by general order what classes of Excise officers shall receive rewards, and what classes shall have no title to share therein.

80. All fines levied under this Act, the disposal  
Fines undisposed of to belong to Government. of which is not specially provided for, shall belong to Government.

But the Chief Revenue Authority may appropriate any portion thereof,  
Special rewards to informers. not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

#### IX.—MILITARY CANTONMENTS.

81. Within the limits of any Military Cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirits, or for the sale of spirituous and fermented liquors shall be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, unless

with the knowledge and consent of the Commanding Officer:

and upon his requisition any license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately withdrawn.

Mode of making arrest or search within Military Cantonments.

82. In all other respects, the foregoing provisions of this Act shall have effect within such limits or distance:

Provided that, when arrest or search is to be made within the limits of any Cantonment, the Collector or other Officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible.

Provided also that nothing herein contained shall affect the provisions of Act No. XXII of 1864 (*to make provision for the administration of Military Cantonments*).

#### X.—MISCELLANEOUS.

83. A drawback of the duty levied under  
Drawback on exportation. Part IV of this Act on spirits manufactured after the English method, and exported by sea to Aden or any port not situate in British India shall be allowed by the Collector of Customs at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits, as ascertained by such proof and gauge.

The quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

84. No drawback shall be allowed on spirits  
No drawback on spirits exported to British Indian ports except Aden or shipped as stores. exported to any port in British India except Aden, or on spirits shipped as stores.

85. Any sum remaining due to Government  
Recovery of sums due under bond. upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

86. All orders passed by a Collector under this  
Appeals from orders and sentences passed under this Act. Act shall be appealable to the Commissioner in the usual manner under the rules in force relative to appeals from the orders of Collectors.

87. In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents and Sub-Deputy Agents shall exercise the

Powers vested in officers of the Opium Department.



powers conferred by this Act on Collectors, so far as the same relate to the suppression of illegal dealings in opium;

and the officers of the Opium Department shall exercise the powers conferred by this Act on Excise officers for the seizure of illicit opium and the arrest of persons found in possession thereof, and in respect to such seizures and arrests, shall be deemed to be Excise officers within the meaning of this Act.

88. All duties heretofore levied in Oudh on spirituous and fermented liquors or intoxicating drugs, shall be deemed to have been levied in accordance with law.

All officers and other persons are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been in force, and no suit or other proceeding shall be maintained against any such officer or other person in respect of anything so done.

#### SCHEDULE.

NUMBER AND YEAR.	TITLE OF ACT.
XXI of 1856	An Act to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.
XXIII of 1860	An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).
X of 1864	An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).
XXVIII of 1864	An Act to provide for the extension of Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal) to the provinces under the control of the Lieutenant Governor of the Punjab.
XXIII of 1868	An Act to give validity to certain Abkari Rules in British Burma.

WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th March 1871, and is hereby promulgated for general information :—

#### ACT No. XI OF 1871.

#### An Act to abolish the Financial Commissionership of Oudh.

WHEREAS it is expedient to abolish the office of Financial Commissioner of Oudh; It is hereby enacted as follows :—

#### Preamble.

Abolition of Financial Commissionership.

1. The said office is hereby abolished.

2. The Governor General in Council may from time to time, by notification in the *Gazette of India*, invest the Chief Commissioner of Oudh, the Judicial Commissioner of Oudh or any

Commissioner in that Province, with all or any of the powers which, if this Act had not been passed, the said Financial Commissioner might have exercised under any law, rule or order having the force of law.

3. All appeals now pending in the Court of the said Financial Commissioner shall be transferred to such Courts as the Governor General in Council may, by such notification as aforesaid, direct in this behalf.

All such appeals shall be disposed of as if they had been originally presented in the Court to which they are so transferred, and the orders of such Court shall have the same effect as if they had been made by the said Financial Commissioner, and as if this Act had not been passed.

4. Act No. XXXVII of 1867 (*for transferring appeals from the Court of the Financial, to the Court of the Judicial, Commissioner of Oudh, and for other purposes*) is hereby repealed.

5. Act No. XIX of 1868 (*to consolidate and amend the law relating to rent in Oudh*), sections 84, 93, 94 and 98, shall be construed as if, for "Financial Commissioner," the words "Judicial Commissioner" were substituted.

WHITLEY STOKES,  
Secy. to the Govt. of India.



# The Gazette of India.

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CALCUTTA, SATURDAY, APRIL 1, 1871.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

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## PART IV.

Acts of the Governor General in Council assented to by the  
Governor General.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th March 1871, and is hereby promulgated for general information :—

ACT No. VIII of 1871.

## THE INDIAN REGISTRATION ACT, 1871.

### ARRANGEMENT OF SECTIONS.

#### PART I.

##### PRELIMINARY.

##### PREAMBLE.

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2. Repeal of enactments
3. Interpretation-clause.

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4. Inspector General of Registration.  
Branch Inspector General of Sindh.
5. Districts and Sub-Districts.
6. Registrars and Sub-Registrars.
7. Offices of Registrars and Sub-Registrars.
8. Inspectors of Registration Offices.
9. Military Cantonments may be declared Sub-Districts or Districts.
10. Absence of a Registrar from his District or vacancy in his office.



## SECTIONS.

11. Absence of Registrar on duty in his District.
12. Absence of Sub-Registrar or vacancy in his office.  
Appointments under section 10, 11, or 12 to be reported to Local Government.
13. Suspension, removal and dismissal of Registering Officers.
14. Remuneration and establishments of Registering Officers.
15. Seals of Registering Officers.
16. Register Books.  
Forms.  
Fire-proof boxes.

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## OF REGISTRABLE DOCUMENTS.

17. Documents of which the registration is compulsory.  
Exception of composition-deeds.  
And of transfers of shares and debentures in Land Companies.
18. Documents of which the registration is optional.
19. Documents in language not understood by Registering Officer.
20. Documents containing interlineations, blanks, erasures or alterations.
21. Description of parcels.  
Documents containing maps or plans.
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## OF THE TIME OF PRESENTATION.

23. Time for presenting documents of which the registration is compulsory.
24. Provision where delay in presentation is unavoidable.
25. Documents executed out of British India.
26. Provision where office is closed on last day of period for presentation.
27. Wills may be presented or deposited at any time.

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## OF THE PLACE OF REGISTRATION.

28. Place for registering documents relating to immoveables.
29. Place for registering other documents.
30. Registration by Registrar.  
Registration by Registrar at Presidency Town.
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## PART VI.

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32. Persons to present documents for registration.
33. Powers of attorney recognizable for purposes of section thirty-two.  
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35. Procedure on admission of execution.  
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## OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

36. Procedure where appearance of executant or witness is desired.
37. Officer or Court to issue and cause service of summons.
38. Persons exempt from appearance at Registry Office.
39. Law as to summonses, commissions and witnesses in this Act.

## PART VIII.

## OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

## SECTIONS.

40. Persons entitled to present Wills and Authorities to adopt.
41. Registration of Wills and Authorities to adopt.

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42. Deposit of Wills.
43. Procedure on deposit of Wills.
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45. Proceedings on death of depositor.  
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58. Particulars to be endorsed on documents admitted to registration.
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60. Certificate showing that document has been registered, and number and page of book in which it has been copied.
61. Endorsements and certificate to be copied.  
Document to be returned.
62. Procedure on presentation of a document in a language unknown to the Registering Officer.
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*(C.) Special Duties of Sub-Registrar.*

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65. Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Districts.



*(D.) Special Duties of Registrar.*

## SECTIONS.

- 66. Procedure on registering instruments relating to immoveables.
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- 68. Registrar to superintend and control Sub-Registrars.
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- 71. Reasons for refusal to register to be recorded by Registrar or Sub-Registrar.
- 72. Registrar may alter or revise orders of Sub-Registrar refusing registration.
- 73. Procedure where Registrar refuses to register or direct registration of documents falling under section 17 or section 18, clauses 1, 2, 3 and 4.
- 74. Petition.  
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- 75. Court to fix day for hearing petition and copy thereof to be served.
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- 77. Fees to be fixed by Local Government.  
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- 79. Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.
- 80. Penalty for certain other offences.  
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- 81. Registering Officer may institute prosecutions.
- 82. Registering Officers to be deemed Public Servants.

## PART XV.

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- 83. Destruction of unclaimed documents.
  - 84. Registering Officer not to be liable for anything *bond fide* done or refused in his official capacity.
  - 85. Nothing done by Registering Officer to be invalidated by defect in his appointment or procedure.
  - 86. Registration of documents executed by Government Officers or certain public functionaries.
  - 87. Exemption of certain documents executed by or in favour of Government.
  - 88. Inspection and copies of such documents.
  - 89. Recognition, in Oudh and Burma, for three months of powers of attorney not executed according to section 33.
  - 90. Burmese registration rules confirmed.
- FIRST SCHEDULE. Enactments repealed.
- SECOND SCHEDULE. Form of Petition under section 73.  
Form of verification.

## AN ACT FOR THE REGISTRATION OF DOCUMENTS.

WHEREAS it is expedient to consolidate and amend the laws relating to the registration of documents; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

1. This Act may be called  
Short title. "The Indian Registration Act, 1871."

It extends to the whole of British India, except such districts or tracts of country as the Local Government may from time to time, with the previous sanction of the Governor General in Council, exclude from its operation.

And it shall come into force on the first day of July 1871.

2. On and from that day the enactments mentioned or referred to in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

But all appointments, notifications, rules and orders made, and all offices established, under any of the said enactments shall be deemed to have been, respectively, made and established under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of July 1871, to any enactment hereby repealed, shall be read as if made to the corresponding section of this Act.

And so far as regards suits instituted before the first day of April 1873, nothing herein contained affects Act No. XIV of 1859, section one, clause ten, as amended by Act No. XX of 1866, section twenty-seven.

And nothing herein contained affects Act No. XX of 1866, so far as relates to the procedure upon any agreement recorded under section fifty-two of that Act at any time before that day, or the procedure provided by that Act for the registration and deposit of authorities to adopt executed before the first day of January 1872.

3. In this Act, unless there be something repugnant in the subject or context—

"Lease" includes a counterpart, a kabūliyāt, an undertaking to cultivate or occupy, and an agreement to lease:

"Signature" and "signed" include and apply to the affixing of a mark:

"Immoveable Property" includes land, buildings, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops, nor grass:

"Moveable Property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property:

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book:

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering slip to any document tendered for registration under this Act:

"Minor" means a person who, according to the personal law to which he is subject, has not attained majority:

"Representative" includes the guardian of a minor and the Committee or other legal curator of a lunatic or idiot:

"Addition" means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name.

"District Court" includes the High Court in its ordinary original civil jurisdiction:

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

## PART II.

## OF THE REGISTRATION ESTABLISHMENT.

4. The Local Government shall appoint an officer to be the Inspector General of Registration for the territories subject to such Government,

or may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers and within such local limits as the Local Government from time to time appoints in this behalf.

The Governor of Bombay in Council may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of the Inspector General under this Act other than the power to frame rules hereinafter conferred.

Any Inspector General or the Branch Inspector General of Sindh may hold simultaneously any other office under Government.

5. For the purposes of this Act, the Local Government shall form Districts and Sub-Districts, and shall prescribe and may from time to time alter the limits of such Districts and Sub-Districts.

The Districts and Sub-Districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.



6. The Local Government may appoint such Registrars and Sub-Registrars, whether public officers or not, as it thinks proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid, respectively.

7. The Local Government shall establish in every District an office to be styled the Office of the Registrar and in every Sub-District an office to be styled the Office of the Sub-Registrar, and may amalgamate with any Office of a Registrar any Office of a Sub-Registrar.

8. The Local Government may also appoint officers to be called Inspectors of Registration Offices, and may from time to time prescribe the duties of such officers. Every such Inspector shall be subordinate to the Inspector General.

9. Every Military Cantonment where there is a Cantonment Magistrate may (if the Local Government so directs) be, for the purposes of this Act, a Sub-District or a District, and such Magistrate shall be the Sub-Registrar or the Registrar, of such Sub-District or District, as the case may be.

Whenever the Governor General in Council declares any Military Cantonment beyond the limits of British India to be a Sub-District or a District for the purposes of this Act, he shall also declare, in the case of a Sub-District, what authorities shall be Registrar of the District and Inspector General, and in the case of a District, what authority shall be Inspector General, with reference to such Cantonment and the Sub-Registrar or Registrar thereof.

10. Whenever any Registrar other than the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant,

any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's Office is situate,

shall be the Registrar during such absence or until the Local Government fills up the vacancy.

Whenever the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant,

any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

11. Whenever any Registrar is absent from his office on duty in his District, he may appoint any Sub-Registrar or other person in his District to perform, during such absence, all the duties of a Registrar, except those mentioned in sections sixty-eight and seventy-two.

12. Whenever any Sub-Registrar is absent, or when his office is temporarily vacant,

any person whom the Registrar of the District appoints in this behalf shall

be Sub-Registrar during such absence, or until the Local Government fills up the vacancy.

13. All appointments made under section ten, section eleven, or section twelve shall be reported to the Local Government by the Inspector General. Such report shall be either special or general, as the Local Government directs.

The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

14. Subject to the approval of the Governor General in Council, the Local Government may assign such salaries as such Government from time to time deems proper to the Registering Officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

The Local Government may allow proper establishments for the several Offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of the Registrar (or of the Sub-Registrar) of

16. The Local Government shall provide for the office of every Registering Officer the books necessary for the purposes of this Act.

The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe custody of the records connected with the registration of documents in such District.

### PART III.

#### OF REGISTRABLE DOCUMENTS.

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate situate in a District in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or Act No. XX of 1866, or this Act came or comes into force (that is to say),—

(1) Instruments of gift of immoveable property:

(2) Other instruments (not being wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property:

(3) Instruments (not being wills) which acknowledge the receipt or payment of any consi-

deration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

(4) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent.

Provided that the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of this section any leases executed in any District, or part of a District, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

Nothing in clauses (2) and (3) of this section applies

Exception of composition-deeds;

(a) to any composition-deed,

(b) to any instrument relating to shares in a Joint Stock Company, notwithstanding that the and of transfers of assets of such Company consist in whole or in part of immoveable property, or Land Companies.

(c) to any endorsement upon or transfer of any debenture issued by any such Company.

Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.

18. Any of the documents next hereinafter

Documents of which the registration is optional.

mentioned may be registered under this Act (that is to say),—

(1) Instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees to or in immoveable property:

(2) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest:

(3) Leases of immoveable property for any term not exceeding one year, and leases exempted under section seventeen:

(4) Awards relating to immoveable property:

(5) Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title, or interest to or in moveable property:

(6) Wills:

(7) Acknowledgments, Agreements, Appointments, Articles of Partnership, Assignments, Awards, Bills of Exchange, Bills of Sale, Bonds, Composition-deeds, Conditions of Sale, Contracts, certain copies of decrees and orders of Courts, Covenants, Grants, Instruments of Dissolution of Partnership, Instruments of Partition, Powers of Attorney, Promissory Notes, Releases, Settlements, Writings of Divorcement, and all other documents not hereinbefore mentioned.

19. If any document duly presented for registration be in a language which

Documents in language not understood by Registering Officer.

the Registering Officer does not understand, and which is not commonly used in the

District, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the District and also by a true copy.

20. The Registering Officer may in his discretion

Documents containing interlineations, blanks, erasures or alterations, any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration. If he register such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

21. (a.) No document not testamentary relating

Description of parcels. to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(b.) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(c.) No document not testamentary containing

Documents containing maps or plans.

a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several Districts, by such number of true copies of the map or plan as are equal to the number of such Districts.

22. Failure to comply with the provisions contained in section twenty-one

Failure to comply with rules as to description of houses and land.

clause (b) shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

#### PART IV.

##### OF THE TIME OF PRESENTATION.

23. Subject to the provisions contained in sections twenty-four, twenty-five

Time for presenting documents of which the registration is compulsory.

and twenty-six, no document required by section seventeen to be registered, and no document mentioned in section eighteen, other than a will, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

or, in the case of a copy of a decree or order, within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final:

Provided that, where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

24. If owing to urgent necessity or unavoidable

Provision where delay in presentation is unavoidable.

accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine



not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

25. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registering Officer, if satisfied,

(1) that the instrument was so executed, and  
(2) that it has been presented for registration within four months after its arrival in British India, may, on payment of the proper registration fee, accept such document for registration.

26. Whenever a registration-office is closed on the last day of any period hereinbefore provided for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

Wills may be presented or deposited at any time.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

#### PART V.

##### OF THE PLACE OF REGISTRATION.

28. Save as in this Part otherwise provided, every document mentioned in section seventeen, clauses (1), (2), (3) and (4), and section eighteen, clauses (1), (2), (3) and (4), shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates is situate.

29. Every document, other than a document referred to in section twenty-eight and a copy of a decree or order, may be presented for registration, either in the office of the Sub-Registrar in whose Sub-District the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose Sub-District the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree desire the copy to be registered.

30. (a.) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him,

(b.) The Registrar of a District including a Presidency Town may receive and register any document referred to in section twenty-eight without regard to the situation in any part of British India of the property to which the document relates.

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer whose duty it is to register the same.

But such officer may on special cause being shown attend at the residence of any person intending to register any document which would ordinarily be registered at such office, or of any person desiring to deposit a will, and register or accept for registration or deposit such document or will.

#### PART VI.

##### OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Except in the case mentioned in section thirty-one, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper Registration Office,

by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order,

or by the representative or assign of such person, or by the agent of such person, representative or assign, duly authorized by power of attorney executed and authenticated in manner hereinafter mentioned.

33. For the purposes of section thirty-two, the powers of attorney next hereinafter mentioned shall alone be recognized (that is to say),—

(a) if the principal at the time of executing the power of attorney resides in any part of British India, in which this Act is for the time being in force a power of attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides:

(b) if the principal at the time aforesaid resides in any other part of British India, a power of attorney executed before and authenticated by any Magistrate:

(c) if the principal at the time aforesaid does not reside in British India, a power of attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India:

Provided that the following persons shall not be required to attend at any registration-office or court for the purpose of executing any such power of attorney as is mentioned in clauses (a) and (b) of this section:—

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;

persons who are in jail under civil or criminal process; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Judge (as the case may be), if satisfied that the power of attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Any power of attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or court hereinbefore mentioned in that behalf.

34. Subject to the provisions contained in this Part and in sections forty-one, forty-three, forty-five, sixty-nine, seventy-six and eighty-six, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation:

Provided that if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases when the delay in appearing does not exceed four months may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, the document may be registered.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon—

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

35. If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document;

or, in the case of any person appearing by a representative, assign or agent, if such representative, assign or agent admits the execution;

or, if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in sections fifty-eight to sixty-one inclusive.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

If all or any of the persons by whom the document purports to be executed deny its execution,

or if any such person appears to be a minor, an idiot, or a lunatic,

or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document.

Nothing in section thirty-four, or the former part of this section, applies to copies of decrees or orders.

## PART VII.

### OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

36. If any person presenting any document for registration desires the appearance of executant or witness is desired. appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or court as the Local Government from time to time directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorised agent, as in the summons may be mentioned and at a time named therein.

37. The Officer or Court, upon receipt of the Officer or Court to peon's fee payable in such issue and cause service cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

38. A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office, a person in jail under civil or criminal process, and persons exempt by law from personal appearance in court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office, shall not be required so to appear.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

39. The law in force for the time being as Law as to summonses, to summonses, commissions and witness- and compelling the attendance of witnesses, and for their remuneration in suits before civil courts shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission, issued, and any person summoned to appear under the provisions of this Act.

## PART VIII.

### OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. The testator or any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration,

and the donor or donee of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

41. A will or an authority to adopt, presented Registration of wills for registration by the testator and authorities to adopt. or donor, may be registered in the same manner as any other document.

A will or authority to adopt presented for registration by any other person entitled to present it, shall be registered if the Registering Officer is satisfied,

(1) that the will or authority was executed by the testator or donor, as the case may be,

(2) that the testator or donor is dead, and

(3) that the person presenting the will or authority is, under section forty, entitled to present the same.



## PART IX.

## OF THE DEPOSIT OF WILLS.

42. Any testator may either personally or by duly authorized agent deposit with any Registrar the will in a sealed cover superscribed with the name of the depositor and the nature of the document.

43. On receiving such sealed cover, the Registrar, if satisfied that the depositor is the testator, or his duly authorized agent, shall transcribe in his Register Book No. 5 the superscription on such sealed cover, and note in the register and on the sealed cover the year, month, day and hour of such presentation and receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover.

The Registrar shall then place and retain the sealed cover in his fire-proof box.

44. If the depositor of any such sealed cover wishes to withdraw it, he may apply to the Registrar with whom it has been so deposited for the delivery of the cover; and the Registrar, if satisfied as to the identity of the depositor with the applicant, shall deliver the cover accordingly.

45. If, on the death of the depositor of a sealed cover under section forty-two, application be made to the Registrar with whom it has been deposited to open the same, the Registrar, if satisfied that the depositor is dead, shall, in the applicant's presence, open the cover, and copy, at the applicant's expense, the contents thereof in his Book No. 3.

When such copy has been made, the Registrar shall re-deposit the original will.

46. Nothing hereinbefore contained shall affect the provisions of the Indian Succession Act, section two hundred and fifty-nine, or the power of any court by order to compel the production of any will. But whenever any such order is made, the Registrar shall copy the will in his Book No. 3 and make a note on such copy that the original has been removed into court in pursuance of the order aforesaid.

## PART X.

## OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

48. All documents, not testamentary, duly registered under this Act, and relating to any property whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

Effect of non-registration of documents required to be registered.

49. No document required by section seventeen to be registered,

shall affect any immoveable property comprised therein,

or confer any power to adopt,

or be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered in accordance with the provisions of this Act.

50. Every document of the kinds mentioned in clauses (1) and (2) of section eighteen, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

*Explanation.*—In cases where Act No. XVI of 1864 or Act No. XX of 1866 was in force in the place and at the time in and at which such unregistered document was executed, "unregistered" means not registered according to such Act, and, where the document is executed after the first day of July 1871, not registered under this Act.

## PART XI.

## OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(A.) As to the Register Books and Indexes.

51. The following Books shall be kept in the Register Books to be several offices hereinafter kept in the several offices named (that is to say),—

In all Registration Offices—

Book 1, "Register of documents relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

Book 3, "Register of wills and authorities to adopt;" and

Book 4, "Miscellaneous Register."

In the Offices of Registrars—

Book 5, "Register of deposits of wills."

In Book 1 shall be entered or filed all documents or memoranda registered under the first four clauses of sections seventeen and eighteen and all other documents mentioned in section eighteen, clause (7), which relate to immoveable property.

In Book 4 shall be entered all documents registered under clauses (5) and (7) of section eighteen, and not entered in Book 1.

Nothing in the former part of this section shall be deemed to require more than one set of books where the Office of a Registrar has been amalgamated with the Office of a Sub-Registrar.

52. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it; a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in section sixty-two, every document admitted to registration shall without un-

Endorsements on document presented.

Receipt for document.

Documents admitted to registration to be copied.